

Page 1  
November 21, 2019

UNITES STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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THOMAS OZZBORN,

Plaintiff,

Civil Action No. 9:17-cv-01039

-against-

THE STATE OF NEW YORK, THE NEW YORK STATE DEPARTMENT  
OF CORRECTIONS AND COMMUNITY SUPERVISION, NEW YORK,  
STATE CORRECTIONS OFFICER MATTHEW CORNELL,  
Individually and in his Official Capacity,

Defendants.  
----- x

DONNESIA BROWN,

Plaintiff,

Civil Action No. 9:17-cv-1036

(MAD/ATB)

-against-

THE STATE OF NEW YORK, THE NEW YORK STATE DEPARTMENT  
OF CORRECTIONS AND COMMUNITY SUPERVISION, NEW YORK  
STATE CORRECTIONS OFFICER MATTHEW CORNELL,  
Individually and in his Official Capacity,

Defendants.  
----- x

VIDEOCONFERENCE DEPOSITION of the Defendant,  
NEW YORK STATE CORRECTIONS OFFICER MATTHEW CORNELL,  
taken by the Plaintiff, pursuant to Order, held at  
the offices of NEW YORK STATE ATTORNEY GENERAL, 28  
Liberty Street, New York, New York, on November 21,  
2019, at 10:40 a.m., before a Notary Public of the  
State of New York.

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Page 2  
November 21, 2019

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M. Cornell

A P P E A R A N C E S:

RUBINSTEIN & RYNECKI, ESQS.

Attorneys for Plaintiff

16 Court Street

Brooklyn, New York 11241

BY: RICHARD LEVY, ESQ.

VIA VIDEOCONFERENCE:

NEW YORK STATE ATTORNEY GENERAL

Attorneys for Defendants

300 South State Street

Syracuse, New York 13202

BY: AIMEE COWAN, ESQ.

xxxxxx

Page 3  
November 21, 2019

1 M. Cornell

2 S T I P U L A T I O N S

3 IT IS HEREBY STIPULATED AND AGREED by and  
4 between the attorneys for the respective parties  
5 herein, that filing, sealing and certification, and  
6 the same are, hereby waived.

7  
8 IT IS FURTHER STIPULATED AND AGREED that all  
9 objections except as to the form of the question,  
10 shall be reserved to the time of the trial.

11  
12 IT IS FURTHER STIPULATED AND AGREED that the  
13 within deposition may be signed and sworn to by an  
14 officer authorized to administer an oath, with the  
15 same force and effect as if signed and sworn to  
16 before the Court.

17  
18 xxxxx  
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Page 4  
November 21, 2019

1 M. Cornell  
2 M A T T H E W C O R N E L L ,  
3 having been first duly sworn before a Notary  
4 Public of the State of New York, was  
5 examined and testified as follows:

6 BY REPORTER:

7 Q State your name for the record.

8 A Matthew Cornell.

9 Q What is your address?

10 A 1284 Sherwood Road, Aurora, New York  
11 13026.

12 EXAMINATION

13 BY MR. LEVY:

14 Q Good morning, Officer Cornell.

15 My name is Richard Levy, I work for a  
16 law firm called Rubenstein & Rynecki.

17 I'm going to be asking you a series of  
18 questions this morning in this proceeding  
19 called a deposition.

20 Before we begin, I'll just go over a  
21 few basic ground rules to make sure that  
22 everything goes smoothly.

23 Please let me know if you do not  
24 understand a question that I'm asking or you  
25 would just like me to rephrase it another



Page 5  
November 21, 2019

1 M. Cornell

2 way. If you've answered the question, it  
3 will be assumed you understood it. So, don't  
4 answer a question if you don't understand.

5 Please wait until I'm done asking a  
6 full question before providing your answer,  
7 as the court reporter can't take down two  
8 people talking at the same time.

9 If you'd like to take a break for any  
10 reason, please let us know, and we'll be  
11 happy to accommodate that, take a break. I  
12 just ask that you don't ask to take a break  
13 if I've asked the question and you have not  
14 yet given an answer to it yet.

15 Do you understand all those  
16 instructions?

17 A Yes.

18 MR. LEVY: Before we go any  
19 further, Ms. Cowan, we'll put on the  
20 record here that Officer Cornell is  
21 testifying as a defendant in two  
22 separate cases. We're creating one  
23 transcript, however, he is testifying  
24 relative to two separate cases that  
25 will be used later on in either case.

Page 6  
November 21, 2019

1 M. Cornell

2 MS. COWAN: Yes, so we're not  
3 agreeing that this testimony is going  
4 to be in both cases necessarily, but  
5 this transcript can be used in either  
6 case.

7 So, in other words, if Ozzborn  
8 goes to trial, we can't necessarily  
9 use his testimony about Brown, I'm not  
10 like agreeing to that, that will  
11 actually be decided by the judge at a  
12 later date, but just for purposes of  
13 these lawsuits, this transcript is  
14 going to cover both the Brown and  
15 Ozzborn cases. So you don't have to  
16 do two separate depositions that will  
17 take way more time.

18 Does that make sense?

19 MR. LEVY: Yes.

20 MS. COWAN: Like you don't have  
21 to come here twice and do it for Brown  
22 and then for Ozzborn.

23 MR. LEVY: For expedience, yes,  
24 we'll agree to that, and then in terms  
25 of whatever is admissible down the

Page 7  
November 21, 2019

1 M. Cornell

2 line, that's up to the judge to  
3 decide.

4 MS. COWAN: Yes.

5 MR. LEVY: Thank you.

6 BY MR. LEVY:

7 Q Officer Cornell, how old are you  
8 presently?

9 A 36 years old.

10 Q What's your current height and weight?

11 A 5-foot-10. 185 pounds.

12 Q Would you say you weighed about the  
13 same back in 2015?

14 A 200 pounds.

15 Q How about in 2016?

16 A I'd say so, yes.

17 Q About the same, 200?

18 A Yes.

19 Q What is your highest level of  
20 education?

21 A I have a high school diploma.

22 Q What year was that?

23 A 2002.

24 Q Have you served in the military?

25 A Yes.



Page 8  
November 21, 2019

1 M. Cornell

2 Q What branch?

3 A United States Army.

4 Q What years were you in the Army?

5 A 2002 to 2008.

6 Q Were you honorably discharged?

7 A Yes, I was.

8 Q What was your rank upon your  
9 discharge?

10 A Sergeant.

11 Q Are you currently employed?

12 A Yes.

13 Q Who is your employer currently?

14 A Dan Lennox Tree Professional.

15 Q I'm sorry.

16 A Dan Lennox Tree Professional.

17 Q How do you spell Lennox?

18 A L-E-N-N-N-O-X.

19 Q What's the nature of the work you do  
20 now?

21 A Basically I work for a tree arborist  
22 and I cleanup brushes that he puts on the  
23 ground, and I also prepare firewood to be  
24 delivered to customers.

25 Q How long have you done this type of

Page 9  
November 21, 2019

1 M. Cornell

2 work?

3 A Since 2016.

4 Q Upon your discharge from the Army,  
5 where were you working?

6 A I worked for the Department of  
7 Corrections.

8 Q That's the New York State Department  
9 of Corrections?

10 A Yes.

11 Q Did you begin work for the New York  
12 State Department of Corrections after the  
13 Army?

14 A Four months after, yes.

15 Q Where were your first assignment with  
16 The Department of Corrections?

17 A Fishkill, Beacon, New York. Fishkill  
18 Correctional Facility.

19 Q How long were you there?

20 A Three months.

21 Q What was the time period you were  
22 there?

23 A September 2018 to December 2018  
24 roughly.

25 Q Was your title "correction officer"?

1 M. Cornell

2 A Yes.

3 Q What was the nature of the work that  
4 you did as a correction officer in Fishkill?

5 A Maintain care, custody and control of  
6 inmates under my watch.

7 Q What was your next job after leaving  
8 Fishkill?

9 A I went to Wallkill Correctional  
10 Facility.

11 Q Were you also a correction officer  
12 there?

13 A Yes.

14 Q How long were you at Wallkill?

15 A Until December 2010.

16 Q So approximately two years you were at  
17 Wallkill?

18 A Correct.

19 Q What was your job duty in Wallkill?

20 A Maintaining care, custody and control  
21 of inmates under my watch.

22 Q Where did you begin working after  
23 leaving Wallkill?

24 A I went to Auburn Correctional  
25 Facility.



Page 11  
November 21, 2019

1 M. Cornell

2 Q Were you at Auburn Correctional  
3 Facility until such time that you no longer  
4 worked for the New York City Department of  
5 Corrections?

6 A That is correct.

7 Q Were you a corrections officer at  
8 Auburn Correctional Facility?

9 A Yes.

10 Q Are there different ranks within  
11 correction officers?

12 A Yes.

13 Q What rank did you achieve?

14 A I maintained the title of correction  
15 officer during the entire duration of my  
16 career.

17 Q When did you stop working as a New  
18 York State corrections officer?

19 A December 2016.

20 Q At that time were you suspended from  
21 work?

22 A Yes.

23 Q At any time before December of 2016,  
24 had you been suspended from your job as a New  
25 York State correctional officer?

1 M. Cornell

2 A No.

3 Q At anytime during the period of time  
4 you worked for New York State Department of  
5 Corrections, had you ever been disciplined  
6 for your on-the-job work?

7 A No.

8 Q Now, let's talk about Auburn  
9 Correctional Facility. Where specifically is  
10 that located?

11 A Central New York.

12 Q Do you know its address?

13 A State Street, Auburn, New York.

14 Q How many inmates does Auburn have?

15 A Approximately 1500.

16 Q How many were housed at Fishkill?

17 A I don't recall that facility.

18 Q Do you recall how many were housed at  
19 Wallkill?

20 A Approximately 500 to 600.

21 Q What level of security is Auburn  
22 Correctional Facility?

23 A Maximum A.

24 Q What level of security was Fishkill?

25 A Medium A.

1 M. Cornell

2 Q What level of security was Wallkill?

3 A Medium B.

4 Q Can you describe the differences  
5 between medium A and medium B security?

6 MS. COWAN: Objection. You can  
7 answer.

8 THE WITNESS: I can answer?

9 MS. COWAN: Yes, you can  
10 answer.

11 A Basically the amount of freedom that  
12 the inmates have during the course of the  
13 day. If that makes any sense.

14 Q Can you describe it in any other way  
15 in terms of what that means to the inmate?

16 A I'll give it to you in terms of Auburn  
17 and Wallkill. Wallkill was medium B, the  
18 inmates had key to their own door to where  
19 they lived, they resided. And when you're  
20 set in the program you basically yell chow in  
21 the morning, they went to chow, and they went  
22 to work.

23 In Auburn, when you release them to  
24 chow they go to program but they're locked in  
25 their cell all night. So, you have to crack



1 M. Cornell  
2 them out and then they leave their cell to go  
3 to program after they eat chow.

4 The difference being they're locked in  
5 their cell in Auburn, and Fishkill or  
6 Wallkill they're not locked inside of a cell,  
7 they're in a cube or a dorm-type setting. Do  
8 you understand?

9 Q Right.

10 So, in order for an inmate to leave  
11 their cell at Auburn, a correction officer  
12 would have to let them out?

13 A Correct.

14 Q During your time working at Auburn,  
15 did you work a steady bid?

16 A Yes.

17 Q What was it called?

18 A C12 mainyard recreation.

19 Q What is meant by that?

20 A It's meant that the company that I was  
21 in charge of, C12, meaning block C, company  
22 12. I had approximately 40 inmates under my  
23 charge at the time. Within that job title,  
24 when I wasn't maintaining the care, custody  
25 and control of inmates block C12 company, I

1 M. Cornell

2 was in the yard maintaining security in the  
3 main yard.

4 Q When you say Company 12, what is meant  
5 by that?

6 A It means it's 12 Company. That's the  
7 name of the Company, the block. 12 Company.  
8 11 Company, 12 Company, 13 Company, 14  
9 Company.

10 Q And they cover different blocks within  
11 the facility?

12 A Excuse me?

13 Q Each one of those companies would  
14 cover the inmates in different blocks within  
15 the facility?

16 A I don't think you understand.

17 Q No, I don't. Could you explain what  
18 is means?

19 A C block has as in ten blocks, ten  
20 companies inside of a block. Do you  
21 understand? 11, 12, 13, 14, 15, 16, 17, 18,  
22 19, 20. Do you understand there's ten  
23 blocks, ten companies to a block. I was in  
24 charge of 12 Company, C block. That's why  
25 the title of my job was C12.

1 M. Cornell

2 Q You had approximately 40 inmates under  
3 your watch?

4 A Yes.

5 Q Did you work a particular time of day  
6 shift?

7 A Yes.

8 Q What was that?

9 A 3:00 p.m. to 11 p.m.

10 Q Was that throughout your time at  
11 Auburn?

12 A Correct.

13 Q How many different blocks are there at  
14 Auburn?

15 A Five blocks in Auburn. Plus the  
16 Disciplinary unit.

17 Q Is the Disciplinary Unit known by any  
18 other name?

19 A SHU-D.

20 Q Is that an acronym for something?

21 A Special Housing Unit D.

22 MS. COWAN: Make sure you wait  
23 until he finishes asking the question.  
24 Because you guys are talking over each  
25 other and she can't take everything



1 M. Cornell

2 down.

3 Q The five other blocks, are they  
4 designated by a letter?

5 A Correct.

6 Q Is it A through E?

7 A Yes.

8 Q Approximately how many inmates would  
9 be to each block?

10 A A block is the biggest block, and so  
11 is C block. The rest of the blocks were a  
12 little smaller.

13 Q How many would be on the C block?

14 A I can't recall. I'm going to say 250.  
15 300.

16 Q Approximately how many would be on D  
17 Block?

18 A A little less than C block.

19 Q Can you describe when you would arrive  
20 at work, what would be the first thing that  
21 you would do?

22 MS. COWAN: Objection. You can  
23 answer, if you can.

24 THE WITNESS: It would be real  
25 hard for him to understand.

1 M. Cornell

2 MS. COWAN: Answer the best you  
3 can, if it can be answered. It's kind  
4 of a broad question.

5 A Like I said, to you before, counselor,  
6 C12 all the jobs in the facility they are not  
7 just affixed to C12, for instance. Mine was  
8 the mainyard job. The first thing I did was  
9 report to the mainyard sergeant's post.

10 Q Was there a purpose to reporting to  
11 the mainyard sergeant's post?

12 A I ran the sergeant's post.

13 Q Was there any particular sergeant who  
14 was your supervising officer in May of 2015?

15 A I believe it was Jeffrey Porten.

16 Q What's that last name?

17 A P-O-R-T-E-N.

18 Q At the sergeant's post, what would you  
19 do there?

20 A I'd make sure the inmates that were  
21 still in the yard return back to the block  
22 because they were left there, the day shift  
23 because the block closed in between shift  
24 change. So inmates would be stuck in what we  
25 call the penalty box, they're trying to get

1 M. Cornell

2 back to their program. So we make sure the  
3 blocks get open so the inmates can return to  
4 their blocks, and then I'd open up program  
5 for the inmates because they have programs in  
6 the afternoon.

7 Q You've been using a term "program."  
8 Can you describe what's meant by that?

9 A Program is a job for the inmate.  
10 Basically a job, occupation for the inmate or  
11 a trade. Learning a trade for them.

12 Q Now, were there certain periods of  
13 time during the day for yard time?

14 A Yes. During the weekday and weekends  
15 are different, but yeah.

16 Q Could you say what those different  
17 periods of time are for the yard time?

18 A Would you want to know weekday?

19 Q Sure, weekday.

20 A A weekday at 3:30 we'd open up the  
21 south yard for the inmates to go to the south  
22 yard. Once the south yard was full, we'd  
23 open up the mainyard and release inmates to  
24 go to the mainyard at 3:30.

25 Q How long a period of time during the



1 M. Cornell

2 weekday are the inmates permitted to be in  
3 the yard?

4 A Till 4:45 approximately.

5 Q What happens at 4:45?

6 A Close the blocks -- excuse me -- open  
7 up the blocks, inmates return to cell, the  
8 correction officer performs a count.

9 Q How would the inmates from C block get  
10 to the yard? Can you describe the path they  
11 would take?

12 A The path?

13 Q Yes.

14 A It's kind of a vague question. Do you  
15 know the layout of the facility?

16 Q Why don't you tell me the layout of  
17 the facility.

18 MS. COWAN: That's going to be  
19 kind of hard to describe it.

20 A It's hard. I'll say it to you like  
21 this, I'll try it like this: A, B and E  
22 blocks are the south side of the facility. C  
23 and D blocks are on the north side of the  
24 facility parallel to Wall Street in Auburn.  
25 Main yard is north side of the facility, the

1 M. Cornell

2 south yard is the south side of the facility.

3 So, the correction officers that were  
4 on the landing to let inmates out to the yard  
5 would be up on the landing, so the path they  
6 would take would be going from north to  
7 south. If that makes any sense.

8 Q And vice versa, the inmates from C and  
9 D would be travel south to north?

10 A Yes. They go from north to south to  
11 the yards. A, B and E would go through south  
12 to north.

13 Q Is there a corridor that they walk  
14 down to get to the yard?

15 A C and D inmates go through a corridor  
16 out the steps out in the yard -- on their way  
17 to the yard.

18 Q How long is that corridor,  
19 approximately?

20 A More rectangular than long. I'd say  
21 it's 30 feet by 20 feet.

22 Q When the inmates are in their cells,  
23 what type of job are you doing at that time?

24 A Counting. Making sure they have light  
25 and water. You count them. Making sure that

1 M. Cornell

2 they have water. Making sure their lights  
3 are on. Making sure they have the basic  
4 amenities that are afforded to them.

5 Q While the inmates are in the yard,  
6 what sort of job are you doing?

7 A The biggest thing to make sure  
8 nothing -- no assaults happen on other  
9 inmates, things of that nature. Making sure  
10 inmates aren't out of place.

11 Q At any one time what's the maximum  
12 number of inmates that can be in the yard on  
13 the north side?

14 A That would be the C block. So, I  
15 mean, a big yard for a C block in the  
16 summertime would be 250 inmates in the yard.

17 MS. COWAN: That's the main  
18 yard or the south yard?

19 A Both yards. C block is supposed to be  
20 in the south yard, you know, that's where  
21 they're supposed to be. South and main, it's  
22 interchangeable.

23 Q Are the C block inmates in the yard at  
24 one time and then the D Block inmates in the  
25 yard another time or do they mix? How do you



1 M. Cornell

2 describe that?

3 A The blocks are supposed to be -- C  
4 block is supposed to be -- there's not  
5 supposed to be any other block mixed in with  
6 C block.

7 C block is in the main yard and D  
8 block are supposed to be inter mingling with  
9 the inmates in the yard. Every once in a  
10 while you have what we call a crossover  
11 because if C block is in the main yard, it  
12 means D block is going to be in the south  
13 yard. The north side can go to the yard  
14 together, the south side can go to the yard  
15 together. But you'd have inmates that were  
16 stuck in the program and they had to go  
17 through the main yard, they'd have to go back  
18 to where they're assigned, to the south  
19 yard -- you see -- it's getting too  
20 complicated to talk about.

21 C Block -- the simplest answer for  
22 him, C block, they're supposed to be in the  
23 main yard, they're not supposed to be D block  
24 inmates in the main yard. Is that simple?  
25 Does that make sense?

1 M. Cornell

2 Q Sure, but sometimes it does happen  
3 when there are C and D block inmates in the  
4 yard sometimes?

5 A Yeah. For instance, let's say, we  
6 have a barber shop, right, in the facility.  
7 So inmates from D block use the barber, he's  
8 giving haircuts to C Block inmates in the  
9 barber shop. When his correction officer  
10 boss tells him his work is complete, he has  
11 to go through the main yard which is at the  
12 time nothing but C block inmates, he goes to  
13 what we call crossover where he has to report  
14 there so he can go where his block is  
15 supposed to be at that time, you know.

16 Q Other than you being assigned to C  
17 Block, had you worked in any other areas at  
18 Auburn during your time there?

19 A Yes, I was in miscellaneous for two  
20 years. And I had a job called dog-five, D5  
21 for a year. I don't know the dates. D5 is  
22 another main yard job. A fixed position job.

23 Q Can you describe what's meant by that?

24 A I had a post in the main yard against  
25 C block wall where I basically watched that

1 M. Cornell

2 side of the yard for the duration of the yard  
3 period.

4 Q And the difference with the other job,  
5 the C12 main yard job that you had, there you  
6 could walk around the job?

7 A Correct.

8 Q I see today that you have kind of a  
9 beard. Back in May of 2015 were you clean  
10 shaven?

11 A Yes.

12 Q How about in January of 2016, were you  
13 also clean shaven at that time?

14 A Probably.

15 Q How did you wear your hair at that  
16 time in May of '15?

17 A Very similar to what I have now.  
18 Short.

19 Q Short close cropped?

20 A Yes.

21 Q Could you describe the uniform that  
22 you would wear as a correction officer at  
23 Auburn?

24 A Blue shirt; dark blue pants.

25 Q Did you carry any equipment?



1 M. Cornell

2 A Yes.

3 Q What?

4 A A baton. Set of keys -- two sets of  
5 key clips.

6 Q Anything else?

7 A I can't recall. I assume that's all.

8 MS. COWAN: Was that May of  
9 2015 you're talking about?

10 MR. LEVY: Sure. I'll adopt  
11 that.

12 Q In May of 2015 what type of equipment  
13 would you carry?

14 A That right there, baton and two key  
15 clips. In the yard I had no keys on. In the  
16 blocks I had keys on my hip.

17 Q What would you do with the keys when  
18 you'd go in the yard?

19 A The keys weren't allowed in the yard.  
20 In the block I had the keys.

21 Q So, what would you do with them when  
22 you'd go into the yard?

23 A I gave them back to the officer  
24 running the block.

25 Q In January of 2016 is that the same

1 M. Cornell

2 type of equipment you would carry, a baton  
3 and two sets of keys?

4 A Yes.

5 Q Can you describe what is meant by the  
6 phrase "key block"?

7 A "Key block" in laymen's term, awaiting  
8 pending disciplinary hearing.

9 Q During the shift that you would work  
10 in the C12 assignment, approximately how many  
11 other correction officers would be working in  
12 the area you were working?

13 A Rephrase one more time please.

14 Q Sure.

15 When you were working the C12 main  
16 yard assignment, how many other correction  
17 officers would be working with you at the  
18 same time?

19 MS. COWAN: In the main yard or  
20 in the block?

21 Q In the block.

22 A I'm the wrong guy to ask that question  
23 to. There seem to be ten officers around the  
24 north side of the jail.

25 Q When you were out in the yard, how

1 M. Cornell

2 many other officers in addition to yourself  
3 would be out there?

4 A At least eight.

5 Q So is that including yourself or in  
6 addition to yourself?

7 A Including myself and the sergeant  
8 actually, yes.

9 Q Including yourself and the sergeant  
10 there would be approximately eight officers  
11 in the yard when the inmates were in the  
12 yard?

13 A I'd say so, yes.

14 Q One of the officers would be a  
15 sergeant?

16 A Yes.

17 Q How about when you're on the block,  
18 other than yourself there are about a total  
19 of ten officers; is that right?

20 A Yes.

21 Q Does that include a sergeant or more?

22 A One housing sergeant.

23 Q Was there a lieutenant?

24 A One lieutenant on that shift, 3:00 to  
25 11:00 shift. That's for the whole facility

1 M. Cornell

2 obviously. They call them Watch Commander.

3 Q Where was he stationed?

4 A What we would call that is "upfront."  
5 Meaning, the administration building.

6 Q At the time that you stopped working  
7 at Auburn, who was the superintendent of the  
8 facility?

9 A Harold Graham.

10 Q Was there a warden?

11 A They don't call them wardens anymore.

12 Q They're superintendent?

13 A Yeah.

14 Q Can you describe any training that you  
15 received to be a correction officer?

16 MS. COWAN: Objection. Can you  
17 be a little more specific, I guess?  
18 Because he's probably received a lot  
19 of training which is kind of broad.

20 Q Generally, can you describe the manner  
21 in which you were trained, was it a classroom  
22 setting, was it a practical setting?

23 A It's all classroom teaching. We go to  
24 the academy. That's all I can tell you.

25 Q So it was in the academy?



1 M. Cornell

2 A Yes.

3 Q How long a period of time were you in  
4 the academy?

5 A Eight weeks.

6 Q What subjects are covered?

7 A Everything from sexual harassment to  
8 use of force training.

9 Q Are you also trained in the methods  
10 for searching inmates?

11 A Not in a practical sense, no.

12 Q Is part of the job of a correction  
13 officer to occasionally pat frisk inmates?

14 A Oh, yes. Yes, absolutely.

15 Q Do you receive any training in methods  
16 to conduct those pat frisks?

17 A You learn on the job from mentors and  
18 the like.

19 Q It's fair to say as you're doing your  
20 job, other more experienced officers will  
21 tell you the things to do?

22 A Correct.

23 Q Can you state the methods by which you  
24 would pat frisk an inmate?

25 MS. COWAN: Objection. Do you

1 M. Cornell

2 understand?

3 THE WITNESS: I don't  
4 understand because it's hard to  
5 explain.

6 MS. COWAN: Do you mean like  
7 the procedure?

8 MR. LEVY: Yes.

9 Q Can you describe the procedure for pat  
10 frisking an inmate?

11 A How I would describe it is I would  
12 order the inmate to submit to a pat frisk.  
13 He places his hand against a wall, and I  
14 would start with one arm -- frisk anyplace  
15 that he can conceal something, whether it be  
16 the hoodie of his hood sweatshirt, whether it  
17 be the sleeves in front of his sweat shirt.  
18 I frisk his ribcage. I feel both sides of  
19 his stomach and his back into his waist band,  
20 and I'd frisk the whole part of his waist  
21 bend. I'd get to a zipper, where that double  
22 part of your zipper is, I'd frisk that. Once  
23 you get down to the leg, you frisk one side  
24 of the leg, all the way down from his private  
25 area, all the way down to his leg. And you

1 M. Cornell

2 ask him take your shoe off on one side. Then  
3 you frisk the other leg and tell him to do  
4 the same thing, take your other shoe off.  
5 It's hard to explain.

6 Q Do you have to get authorized to frisk  
7 an inmate?

8 A No.

9 MS. COWAN: You're just talking  
10 about pat frisk, right, because  
11 there's pat frisk and strip frisk.

12 MR. LEVY: I'm just talking  
13 about a pat frisk at this point.

14 Q For a pat frisk you don't have to get  
15 any authorization from a sergeant?

16 A Correct.

17 Q If you do conduct a pat frisk you have  
18 to inform the sergeant afterwards?

19 A No.

20 Q Did you conduct strip frisk?

21 A Yes.

22 Q In order to conduct a strip frisk, did  
23 you have to get authorization?

24 A Yes.

25 Q Can you describe the procedure for

1 M. Cornell

2 that?

3 A If I felt something unusual, and the  
4 sergeant is right next to me like he usually  
5 always is: I'd say, hey, Sarge, I feel  
6 something in the zipper of his pants. He'll  
7 say, okay, Cornell, let's go inside and look  
8 at it.

9 Q So a strip frisk could start with a  
10 pat frisk in the yard and then you would go  
11 inside if you have to further conduct a strip  
12 frisk?

13 A Yes, just what you said. Pat frisk in  
14 the yard, you felt something unusual, you  
15 take the inmate to a private area and have  
16 the inmate strip frisk with the sergeant's  
17 authorization, yes.

18 Q Is there also something also called a  
19 cell frisk?

20 A Yes.

21 Q Can you describe that.

22 A The cell frisk, you look at everything  
23 inside the cell and make sure there's no  
24 contraband, nothing that an inmate is not  
25 supposed to have inside of his cell.



1 M. Cornell

2 Q What is the procedure for that if the  
3 inmate is in the cell?

4 A Order him to come out and give a pa  
5 frisk to the inmate and then he watches the  
6 cell being frisked.

7 Q How many officers would conduct that  
8 process?

9 A There is no policy on that. There  
10 should be a guy watching the guy's back, the  
11 inmate.

12 Q So ideally there would be at least two  
13 officers?

14 A Yeah.

15 Q In terms of conducting a strip frisk  
16 or a cell-frisk, are you provided with any  
17 type of instruction on how to conduct those?

18 A I don't know. You mean like training  
19 or like the sergeant standing nearby? What  
20 do you mean by that?

21 Q Training or instruction or written  
22 material. Anything that would provide  
23 guidance on how to conduct these things.

24 A I'm sure -- look, in Auburn that was  
25 the best instruction you get is the more time

1 M. Cornell

2 you get, the more and more experience you  
3 have on it. That's the best way I can say.  
4 If that's the right way to answer that.

5 Q Were you ever given any type of  
6 written materials like a handbook, guidebook  
7 on --

8 A Never. Never.

9 MS. COWAN: Make sure he  
10 finishes asking his question. I don't  
11 want you to anticipate what he's  
12 saying, he may not be saying what you  
13 think.

14 Q As a correction officer at Auburn, are  
15 you given a locker to use?

16 A Yes.

17 Q Is that generally to change into your  
18 uniform?

19 A Yes.

20 Q Where are the lockers located?

21 A In the cellar administration building.

22 Q Earlier you had said that the first  
23 thing that you would do, when you reported  
24 for the job, is to go to the sergeant's post  
25 in the yard?

1 M. Cornell

2 A Yes.

3 Q Before doing that, would you first go  
4 to your locker?

5 A Usually.

6 Q Would you arrive at Auburn in street  
7 clothes?

8 A No.

9 Q You would come already dressed in  
10 uniform?

11 A Yes.

12 Q So are you assigned a locker number?

13 A Yes.

14 Q What was your locker number?

15 A I don't recall.

16 Q Do you recall ever being assigned  
17 locker number 269?

18 A I don't.

19 Q Do you recall ever being assigned  
20 locker number 276?

21 A I don't.

22 Q Do you recall ever being assigned  
23 locker number 169?

24 A No, I don't.

25 Q Did you during your time at Auburn

1 M. Cornell

2 utilize more than one locker?

3 A I don't recall.

4 Q As far as a key to your locker, who  
5 would have a key?

6 A The arsenal and myself. The guy who  
7 held the locker.

8 Q What is meant by "the arsenal"?

9 A That's where every piece of chemical  
10 agents, weapons to batons. Anything that was  
11 meant to be locked and stored away from  
12 inmates would be in there.

13 Q Is it fair to say that you would have  
14 a key to your locker and the facility would  
15 also have a key to your locker?

16 A Yes.

17 Q Do you recall ever sharing a locker?

18 A No. It's been so long.

19 Q Is there an area, or you may have  
20 described it, where the lockers are that's  
21 referred to as the dungeon. You may have  
22 referred to it as the cellar. Is it also  
23 known as the "dungeon"?

24 A Yes. I didn't know you knew that  
25 term, I would have said it earlier, but, yes,



1 M. Cornell

2 the dungeon.

3 Q Did you always have the same locker?

4 A I don't recall. I really don't.

5 Q Is there something called a lineup  
6 room at Auburn?

7 A It's in the same area as the dungeon.

8 Q Did you utilize a locker that was near  
9 the lineup room?

10 A Yes. It's all the same area.

11 Q Did you ever ask to be assigned a  
12 particular locker at Auburn?

13 A No.

14 Q Did you have access to a computer at  
15 Auburn?

16 A No.

17 Q Were there occasions that you would  
18 ask other people working at Auburn to look up  
19 an inmate's disciplinary history at Auburn?

20 A No.

21 Q While the inmates are on the block,  
22 are they always in their cell?

23 MS. COWAN: Objection. Is that  
24 too vague, too broad?

25 THE WITNESS: Yes.

1 M. Cornell

2 A No offense, Counselor, that is a  
3 little vague. On the block? Like lights out  
4 time 10 o'clock till 7:30 when they go to  
5 chow in the morning? That's what I call on  
6 the block. That means no one ventures out.  
7 You understand, they're locked in their cell.  
8 Within 7:30 a.m. when they go to program  
9 until 10:00 p.m. or 9:45 p.m., whatever time  
10 it was, there's a lot of fluid stuff going on  
11 in that facility.

12 But most of the time if they're not  
13 assigned a program, if they're not going out  
14 in the yard, they're supposed to be locked in  
15 their cell.

16 Q I guess what I'm asking is: Is there  
17 an area inside the facility where inmates are  
18 permitted to move about freely? Like --

19 A No, that should never happen.

20 Q So, there's no like a rec room or  
21 something like that inside the facility?

22 A There is a gym but it's inside the  
23 yard. There's a gym building. It's within  
24 the confines of the yard system.

25 Q So, if I understand you correctly,

1 M. Cornell

2 from the time they go to eat in the morning  
3 they may have program doing a job --

4 A Yes.

5 Q -- or being in the yard, but other  
6 than that an inmate is to be in their cell?

7 A Correct.

8 Q And then lights out is at 10:00 p.m.?

9 A Yes.

10 Q And they are out for, I guess,  
11 breakfast in the morning at 7:00?

12 A 7:30, yeah.

13 Q If during a frisk of an inmate you do  
14 find contraband, can you describe the  
15 procedure for what is to be done with that  
16 contraband?

17 A To notify the sergeant and the  
18 sergeant calls the Watch Commander.

19 Q Once you notify the sergeant and the  
20 sergeant notifies Watch Command, is there any  
21 other responsibility that you have with  
22 regard to any contraband that you found?

23 A It depends on what the contraband is.

24 Q If it's something that is what you  
25 perceive to be a weapon, is there a

1 M. Cornell

2 particular procedure that you're supposed to  
3 undertake?

4 A Yes.

5 Q What is that?

6 A I don't remember it all, but you're  
7 supposed to bag the stuff and put it inside  
8 of a locker, in an evidence drop box, if I  
9 remember right.

10 MR. LEVY: Off the record.

11 (At this point in time, a  
12 discussion was held off the record.)

13 BY MR. LEVY:

14 Q Where is that evidence drop box  
15 located?

16 A In the Watch Commander's office at the  
17 time I worked there.

18 Q Where is that located?

19 A In the administration building.

20 Q Were there different Watch Commanders?

21 A They have relief officers, you know,  
22 guys when they had their days off another  
23 Watch Commander would come in.

24 Q In other words, is that a job that's  
25 worked by shift or is that a permanent



1 M. Cornell  
2 position that somebody has?

3 A It's by shift.

4 MS. COWAN: Can you get the  
5 paper off the microphone?

6 MR. LEVY: Sorry, about that.

7 MS. COWAN: Thanks.

8 MR. LEVY: I didn't realize  
9 that had happened.

10 MS. COWAN: That's okay.

11 Q What's the rank of the Watch  
12 Commander?

13 A Lieutenant.

14 Q In May of 2015 do you know who the  
15 lieutenant was?

16 A No, I don't.

17 Q In January of 2016, do you know who  
18 the lieutenant was?

19 A No, I don't.

20 Q Earlier you had said that you would  
21 learn on the job from mentors on how to  
22 conduct the various frisks that you did.

23 Can you name any of those people who  
24 provided you the mentorship?

25 A No. I don't know any of them anymore.

1 M. Cornell

2 Q If a contraband, such as, a weapon is  
3 found on an inmate, is it to be photographed?

4 A Yes.

5 Q Would you take the photograph if you  
6 were the one who found it?

7 A Not necessarily. I could, if I wasn't  
8 overwhelmed but usually there is somebody --  
9 at the time, if I remember right, there's an  
10 officer working in the Watch Commander's  
11 office that would have the camera ready for  
12 you.

13 Q So is there a camera that is kept at  
14 the facility for the purposes of  
15 photographing any contraband that's found on  
16 inmates?

17 A Yes.

18 Q Who keeps that?

19 A I don't know who keeps that.

20 Q Do you know where it was kept?

21 A I don't.

22 Q Did you ever have any training in gang  
23 intelligence?

24 A No.

25 Q While you were at Auburn, were you

1 M. Cornell

2 aware if there were any gangs within the  
3 facility?

4 A Absolutely.

5 Q Which gangs were at the facility  
6 during the time you were there?

7 A Bloods, Latin Kings, Quinteros. All  
8 kinds of offshoots off of them.

9 Q How would you get to and from the  
10 facility?

11 A I would drive.

12 Q Is there a parking area at the  
13 facility?

14 A Yes.

15 Q Relative to where you would enter the  
16 facility upon your arrival there, where was  
17 that parking lot located?

18 A Right across the street from the  
19 facility. One parking lot.

20 Q Had you ever removed contraband from  
21 the facility and brought it to your personal  
22 vehicle?

23 A Yes. Accidentally, yes, I have.

24 Q That was on accident?

25 A Yes.

1 M. Cornell

2 Q In December of 2016 was your vehicle  
3 actually searched and a weapon found in your  
4 vehicle?

5 MS. COWAN: Objection. You can  
6 answer.

7 A There was a rifle found in the  
8 vehicle. There was two makeshift type -- I  
9 can't remember what they were specifically,  
10 but something from the prison was found in  
11 the facility. Two  
12 cutting-type-instrument-looking things.

13 Q Did you intend on doing anything with  
14 those items?

15 A No. Throw them away.

16 Q Did the rifle have any ammunition?

17 A In a separate case.

18 Q Those two-cutting-type instruments,  
19 had you personally recovered them off of  
20 inmates?

21 A Not off inmates, never.

22 Q Do you know how it came to be that  
23 those instruments were in your car?

24 A I put them there.

25 Q Do you know when you put them there?



1 M. Cornell

2 A No.

3 Q Do you know where you found them?

4 A Somewhere in the facility.

5 Q Do you know where in the facility?

6 A No.

7 Q Was it a common practice to remove  
8 contraband such as these weapons and put them  
9 in your personal vehicle?

10 MS. COWAN: Objection. You can  
11 answer.

12 A It wasn't common practice. To me it  
13 wasn't a big deal. If you found something on  
14 the ground and you take it out of the  
15 facility, nobody wanted to do nothing with  
16 it. It wasn't a big deal to me.

17 Q If you do place an item of contraband  
18 into the evidence drop box, do you also have  
19 to write a memo regarding the evidence that  
20 you're leaving there?

21 A Rephrase. Are you talking about --  
22 rephrase the question.

23 Q Sure.

24 If you deposit an item of contraband,  
25 such as, a weapon into that evidence drop

1 M. Cornell

2 box, do you also have to create a memo about  
3 what you're leaving there?

4 A I don't recall. I remember writing a  
5 misbehavior report in a memo that basically  
6 mirror image the misbehavior report. But I  
7 don't know if drop into evidence -- into the  
8 drop box, I don't remember that being part of  
9 the policy. It's been three years.

10 Q Does the evidence have to be logged in  
11 any form?

12 A Yes, it definitely has to be logged.

13 Q How?

14 A How? You mean like writing with a  
15 pen? Is that what you mean?

16 Q Yes.

17 A With a pen, yes. It's been so long,  
18 but I remember the Watch Commander and myself  
19 writing many of them in an entry book.

20 Q Regarding those few items of  
21 contraband that were in your vehicle, were  
22 you told by any supervisors at Auburn what to  
23 do with them?

24 A Never.

25 Q Do you recall an inmate at Auburn, an

1 M. Cornell

2 inmate, named Donnesia Brown?

3 A No, I don't.

4 MR. LEVY: Aimee, do you have  
5 the item that's Bates stamp 177?

6 MS. COWAN: I do. It's a  
7 photograph of Donnesia Brown?

8 MR. LEVY: Yes.

9 MS. COWAN: Okay.

10 Q Officer Cornell, I'm going to ask you  
11 to take a look at this document. It has  
12 Bates stamped number 177 on it. There's a  
13 photograph or multiple photographs of an  
14 individual on it. Do you recognize that  
15 individual?

16 A I do not.

17 MR. LEVY: For the record, it  
18 indicates the name of this individual  
19 as Donnesia Brown.

20 Q Have you ever seen a document that  
21 looks like this, the one you're looking at  
22 that's Bates stamped 177?

23 A Yes.

24 Q What do you understand it to be?

25 A It's a photograph of an inmate.

1 M. Cornell

2 Q It provides on this document something  
3 called an owning facility, correct?

4 A Yes.

5 Q And on this document it indicates  
6 Auburn General as the holding facility,  
7 correct?

8 A Yes.

9 Q On January 21, 2016, do you recall  
10 conducting a search of an individual named  
11 Donnesia Brown?

12 A No, I don't.

13 Q On January 21, 2016, do you recall  
14 conducting a search of any inmate at Auburn?

15 A Can I say something?

16 MS. COWAN: Just answer the  
17 question.

18 A I don't. I frisked all the time, man.

19 MR. LEVY: Do you have the  
20 document that's number 171?

21 MS. COWAN: Yes.

22 Q Officer Cornell, I want to give you an  
23 opportunity to read through that, okay.

24 A Yep. Got it.

25 Q Also, before testifying here today,



1 M. Cornell  
2 did you review any documents?  
3 A Vaguely.  
4 Q Which documents did you review?  
5 A I seen this one.  
6 Q What is this document?  
7 A It's a to/from memorandum.  
8 Q It's a memorandum regarding what?  
9 A My frisk on Brown.  
10 Q So there was a frisk performed by you  
11 of an inmate D. Brown, his identification  
12 number is 11A4897, correct?  
13 A Yes.  
14 Q This memorandum, is that all your  
15 handwriting?  
16 A Yes, it is.  
17 Q At the bottom you've signed it?  
18 A Yes.  
19 Q Can you read for the record, what it  
20 states.  
21 A (Reading): On the above date and  
22 approximate time I was ordered by Sergeant  
23 Pyke to frisk Brown, D. 11A4897 who occupied  
24 D-4-37 cell. I ordered Officer Brown out of  
25 his cell to submit to a pat frisk on D-4

1 M. Cornell  
2 Company. During the pat frisk of Brown I  
3 felt an unknown object in Brown's buttocks  
4 area. I notified Sergeant Pyke who  
5 authorized me to conduct a strip frisk of  
6 Brown in D block 4 and 5 center room. During  
7 the strip frisk Brown volunteered surrendered  
8 to me from his buttocks area an ice pick type  
9 weapon fashioned out of a toothbrush  
10 measuring approximately 8 inches long by  
11 half-inch wide. The weapon was sharpened to  
12 a point on one end and had a cloth handle on  
13 the other end. The weapon was photographed,  
14 bagged and secured in the evidence drop box  
15 per directive 4910A.

16 MS. COWAN: Do you want to mark  
17 it?

18 MR. LEVY: I'm referring to it  
19 as Bates Stamp number 171.

20 MS. COWAN: Okay.

21 MR. LEVY: I could mark it as  
22 an exhibit if you feel better about  
23 doing it that way.

24 Off the record.

25 (At this point in time, a

1 M. Cornell  
2 discussion was held off the record.)  
3 BY MR. LEVY:  
4 Q It indicates the date that this was  
5 done was what, Officer Cornell?  
6 A January 21, 2016.  
7 Q And the approximate time?  
8 A 3:30 p.m.  
9 Q And this was submitted to Sergeant  
10 Pyke by you?  
11 A Yes.  
12 Q Can you describe Sergeant Pyke? What  
13 did he look like?  
14 A Tall, hair like me. White.  
15 Q Male?  
16 A Yes.  
17 Q Do you recall Sergeant Pyke's first  
18 name?  
19 A I don't.  
20 Q When you left Auburn, was Sergeant  
21 Pyke still there?  
22 A Yes.  
23 Q As far as you know, does Sergeant Pyke  
24 still work at Auburn?  
25 A I'm not sure.

1 M. Cornell

2 Q Do you know why Sergeant Pyke ordered  
3 you to conduct a frisk on Inmate Brown?

4 A I don't.

5 Q Inmate Brown was in the D-4-37 cell;  
6 is that right?

7 A That's what it says, yes.

8 Q Can you describe where that is  
9 located?

10 A D block, 4 company, 37 cell.

11 Q Are there multiple levels of the D  
12 block?

13 A Yeah, four and five are the highest on  
14 D block. Fourth tier up.

15 Q It indicates it was conducted in a  
16 center room.

17 Can you describe where that is in  
18 relation to D block?

19 A It's in the middle of D block, 4 and  
20 5.

21 Q How big is that room?

22 A Approximately six by three and a half  
23 feet.

24 Q After reading this document, does it  
25 refresh your recollection at all about



1 M. Cornell

2 conducting the frisk of this inmate, D.

3 Brown?

4 A Not at all.

5 Q After reading it, do you know whether  
6 or not you had asked Sergeant Pyke if you  
7 could conduct a strip frisk of this inmate?

8 A It looks like I felt an unknown object  
9 on Brown and I got ahold of Sergeant Pyke and  
10 he told me to strip frisk him.

11 Q When an inmate is being strip frisked,  
12 what are they told to do?

13 A Take their clothes off.

14 Q Completely?

15 A Yeah.

16 Q According to this document that was  
17 done in the center room?

18 A In the center room, yes.

19 Q Would Sergeant Pyke have been with you  
20 while this strip frisk was being conducted?

21 A Yeah.

22 Q Do you know if any other officers were  
23 with you at the time?

24 A No, I don't.

25 Q Do you know whether or not this

1 M. Cornell

2 inmate, D. Brown, was in a fight in the yard  
3 a week before this frisk?

4 A No, I wouldn't have known; I wouldn't  
5 have cared.

6 Q Did you know at the time that this  
7 frisk was conducted what the status of this  
8 inmate, D. Brown's, sentence was at Auburn?

9 A No, not at all.

10 Q Is there anything to suggest that this  
11 inmate, D. Brown, objected to being searched?

12 MS. COWAN: Objection.

13 A I don't remember the frisk. I don't  
14 remember what his emotions were, what my  
15 emotions were, I don't remember any of it.

16 Q I'm only asking based upon what you've  
17 read, is there anything that would suggest  
18 that he objected to the search?

19 A Do you understand what I just said?

20 MS. COWAN: Just based on this  
21 one memo.

22 A No, not at all. He voluntarily  
23 surrendered to me. According to the document  
24 what I wrote is that he voluntarily  
25 surrendered the weapon to me.

1 M. Cornell

2 MR. LEVY: Aimee, I'm looking  
3 at this screen and it says that this  
4 conference or something is scheduled  
5 to end in a minute.

6 MS. COWAN: Let's go off the  
7 record.

8 (At this point in time, a brief  
9 recess was taken.)

10 BY MR. LEVY:

11 Q What time of the day would the inmates  
12 on the D block have access to the yard?

13 A Around 3:30 p.m. Can I hold up for a  
14 sec?

15 Q Do you want to change what you just  
16 said?

17 A Well, it's 3:30 but it's not like that  
18 everyday. They have an afternoon rec one  
19 day, and then the next day during the week  
20 they have it in the evening.

21 Q So it could depend on the day, it  
22 could either be at 3:30 or it could be later  
23 on towards the evening?

24 A Correct.

25 Q On this particular day, January 21,

1 M. Cornell

2 2016, would you know when they had yard  
3 access?

4 A I wouldn't have known that, no.

5 Q When an inmate returns to the cell  
6 block from the yard, do they have to pass  
7 through any type of metal detector?

8 A You said going from the yard to the  
9 cell?

10 Q Correct.

11 A No. We put them back in their cells.  
12 We wouldn't frisk them to go back in their  
13 cell.

14 Q Do they have to pass through some sort  
15 of detection in order to enter the yard?

16 A Not on the weekdays, no.

17 Q On the weekends they do?

18 A Weekends we frisk. We did frisk.

19 Q So, before entering the yard you would  
20 do a pat frisk?

21 A We random pat frisk on the weekend.

22 Q What do you mean by random pat frisk?  
23 It wouldn't be everybody?

24 A Meaning, on the weekends the Watch  
25 Commander was to send down ten ones, the box



1 M. Cornell

2 chairs would be set up, and basically you  
3 don't just pick out inmates. An inmate shows  
4 up in the corridor and he randomly pats the  
5 inmates.

6 If the north side was coming out on  
7 the evenings, which would be, you know, their  
8 evening rack, the guards are staged in the  
9 corridor, and the inmates would come out of C  
10 block, a couple of guys get frisk randomly,  
11 and then D block guys, the same way. Every  
12 weekend.

13 Q When you say it's random, it wouldn't  
14 be every inmate entering the yard, it would  
15 be who ever is selected?

16 A It could be one out of five, one out  
17 of ten, one out of three.

18 Q When you conduct a frisk, are you  
19 doing it barehanded or are you wearing  
20 gloves?

21 A I always do it barehanded. I never  
22 wore gloves.

23 Q Does that also go for whether you  
24 conducted a strip frisk?

25 A Yeah, I'd say so, yeah, I never wore

1 M. Cornell

2 gloves.

3 Q Is that the procedure or protocol?

4 A There is no protocol or procedure.

5 There is nothing written down about that.

6 Q Is there any concern for fingerprint  
7 contamination?

8 A No.

9 MR. LEVY: Do you have document  
10 172.

11 MS. COWAN: Yes.

12 A Yes.

13 Q This is document Bates stamped number  
14 172.

15 MR. LEVY: Off the record.

16 (At this point in time, a  
17 discussion was held off the record.)

18 MR. LEVY: For the record, the  
19 documents that Officer Cornell has  
20 looked at to this point are Bates  
21 stamped with the Brown v. Cornell  
22 caption on them.

23 Q So, this document 172, have you had a  
24 chance to look at it?

25 A I didn't look at this but okay. I

1 M. Cornell

2 have not, no.

3 Q Do you know what it is?

4 A The strip frisk form.

5 Q Is this a document that you prepared?

6 A Yes.

7 Q Your signature is at the bottom?

8 A Yes.

9 Q Sergeant Pyke authorized it and his  
10 signature is on it as well?

11 A Yes.

12 Q This document, is it required whenever  
13 you conduct a strip frisk?

14 A Yeah.

15 Q This indicates inmate's name is what?

16 A Brown, Donnesia.

17 Q And it has the date that it was  
18 conducted as what?

19 A January 21, 2016.

20 Q What time?

21 A Approximately 3:30 p.m.

22 Q It indicates the location of the strip  
23 frisk?

24 A Yeah.

25 Q Where is that?

1 M. Cornell

2 A D block 4-5 center room.

3 Q It has identification number as  
4 11A4897, correct?

5 A Correct.

6 Q And this form provides a basis for the  
7 search and frisk, correct?

8 A Yes.

9 Q What did you write?

10 A "Felt an unknown object in Brown's  
11 buttocks area during pat frisk on D-4  
12 company."

13 Q There's a box that's checked that says  
14 "strip frisk," right?

15 A Yes.

16 Q As opposed to "strip search"?

17 A Yes.

18 Q What's the difference?

19 A I don't think what a strip search is.  
20 Strip frisk is basically, from what I've come  
21 to know, is a visual look at the naked body  
22 of a human being.

23 Q And there is a section there for  
24 "Name/rank of person(s) conducting the  
25 frisk," right?



1 M. Cornell

2 A Yes.

3 Q Your name is there, right?

4 A Yes.

5 Q And also "Result of search," you have  
6 information that you've written there,  
7 correct?

8 A Yes.

9 Q What have you written there?

10 A (Reading): Ice pike type weapon  
11 fashioned out of a toothbrush measuring  
12 approximately 8 inches long by half-inch wide  
13 with clock handle.

14 Q You also indicate whether or not force  
15 was used to complete the search, right?

16 A Correct.

17 Q What have you indicated?

18 A It says "No."

19 Q So no force was used to conduct this  
20 search?

21 A Correct.

22 MR. LEVY: Can Officer Cornell  
23 be shown what's Bates stamp 173. This  
24 is Brown v. Cornell 173.

25 Q Have you had an opportunity to look at

1 M. Cornell

2 it?

3 A Yes.

4 Q Do you know what this document is?

5 A Yes, I do.

6 Q What is it?

7 A It's an Inmate Misbehavior Report.

8 Q When is it required that you complete  
9 an Inmate Misbehavior Report?

10 A Anytime an officer finds that an  
11 inmate infracts the rules -- violates the  
12 institutional rules of prison.

13 Q And this is an Inmate Misbehavior  
14 Report that was completed by you, correct?

15 A Yes.

16 Q The information inputted on this  
17 document was inputted by you?

18 A Yes.

19 Q And you've signed it in the middle of  
20 the page?

21 A Yes.

22 Q And there is a supervisor endorsement  
23 towards the bottom that's a sergeant's  
24 signature, correct?

25 A Yes.

1 M. Cornell

2 Q And this is with regard to the search  
3 done on Donnesia Brown on January 21, 2016 at  
4 approximately 3:30 p.m., correct?

5 A Yes.

6 Q You've indicated two rule violations  
7 on it. What have you written there?

8 A 113.10 weapon; 113.11 altered item.

9 Q These would be charges for the inmate  
10 to face discipline at the facility?

11 A Yes.

12 Q You've also inputted information in  
13 the box that's number four, the description  
14 of the incident. Can you please read for the  
15 record, and keep in mind that the reporter  
16 has to take down what you're saying, so if  
17 you could read it a little slower what you've  
18 written there.

19 A (Reading:) On the above date and  
20 approximate time I was ordered by Sergeant  
21 Pyke to conduct a suspicion frisk of Brown D.  
22 11A4897 who occupied D-4-37 cell. I ordered  
23 Brown out of his cell and submit to a pat  
24 frisk on D-4 Company. During the pat frisk  
25 of Brown I felt an unknown object in Brown's

1 M. Cornell

2 buttocks area. I notified Sergeant Pyke who  
3 authorized me to strip frisk Brown in the D  
4 block 4-5 center room. During the strip  
5 frisk Brown voluntarily surrendered to me  
6 from his buttocks area and ice pick type  
7 weapon fashioned out of a toothbrush  
8 measuring approximately 8 inches long by 1/2  
9 inch wide. The weapon was sharpened to a  
10 point on one end and had a cloth handle on  
11 the other end. No other contraband was found  
12 during the strip frisk. The weapon was  
13 bagged, photographed, and secured in the  
14 evidence drop box per directive 4910A.

15 Q According to this document you  
16 completed this report on January 21, 2016; is  
17 that right?

18 A Yes.

19 Q Can you just say what is meant by a  
20 "suspicion frisk"?

21 A Suspicion frisk it could be many  
22 things. It could be acting out of the norm.  
23 It could be somebody's informer told somebody  
24 that he had something. There's a myriad of  
25 ways suspicion frisk comes about.



1 M. Cornell

2 Q Is it fair to say that at some point  
3 there was a suspicion form by either Sergeant  
4 Pyke or another officer that this inmate  
5 Donnesia Brown had something on him?

6 A I guess so, yes.

7 Q So, is it also fair to say that you  
8 don't recall ever having any interaction with  
9 this Inmate Donnesia Brown; is that fair?

10 A What's your question?

11 Q Is it fair to say that you don't  
12 recall ever having any interactions with this  
13 Inmate Donnesia Brown?

14 A Yes, I don't know the man.

15 Q According to this document, it  
16 indicates in box number six other inmates  
17 were not involved, correct?

18 A Correct.

19 Q According to this document at the time  
20 of the incident he was confined, correct?

21 A Yes.

22 Q And that he was also confined after  
23 the incident?

24 A Yes.

25 Q And according to this document he was

1 M. Cornell

2 moved to another housing unit?

3 A Yes.

4 Q And does it say where he was moved?

5 A Yes, it does.

6 Q Where does it say he was moved?

7 A SHU-D.

8 Q And you stated that earlier, that's a  
9 Disciplinary Special Housing Unit?

10 A Yes.

11 Q Is that also solitary confinement?

12 A No. My time as a correction officer,  
13 we never used the term "solitary  
14 confinement." It's Disciplinary Unit.

15 Q But is he put in a cell by himself?

16 A Just like he is down in the blocks.

17 MR. LEVY: Can he be shown 178.

18 Q Now, you've mentioned that the item  
19 found on Inmate Brown was bagged,  
20 photographed and secured in evidence drop  
21 box. Do you know if you did those things?

22 A Yes, I did. If I wrote it, I did it.

23 Q So, you're looking at this document  
24 number 178. Do you recognize what we're  
25 looking at?

1 M. Cornell

2 A Do I know what that is? Yes, I do.

3 Q What are we looking at?

4 A It's a fashioned-type prison weapon.

5 Q As you're looking at it, does it look  
6 like the item you've described in your  
7 misbehavior report and your memorandum?

8 A Yes.

9 Q Looking at it, do you recall ever  
10 finding this item on this Inmate Brown?

11 A Can I say this -- I found a lot of  
12 these things, man. I see it, but to me it  
13 looks like just another weapon.

14 Q I'm just asking whether or not --

15 A You're asking me if it looks like the  
16 one I found on him. I don't remember the  
17 incident. You understand?

18 Q Okay.

19 According to this document, this is  
20 the item that you found on this Inmate Brown  
21 conducting that search though, according to  
22 this document?

23 A Yes.

24 Q Did you plant this item on Inmate  
25 Brown?

1 M. Cornell

2 A No, I didn't.

3 Q Do you know if any other officer  
4 planted this item on Brown?

5 A No.

6 Q Did you have any reason to setup this  
7 Inmate Brown?

8 A Not one.

9 Q Once the item is bagged and  
10 photographed and secured in the evidence drop  
11 box and you complete your paperwork related  
12 to this search, do you have any other  
13 responsibility regarding it?

14 A Not that I remember what you just  
15 said. It's been a long time.

16 Q Do you ever recall testifying at a  
17 disciplinary hearing for this Inmate Brown?

18 A No, I don't remember any of that.

19 Q Do you know whether or not this Inmate  
20 Brown received any outside charges against  
21 him from the Cayuga County DA's office?

22 A No, I would not know that stuff.

23 Q Do you know what a Tier 3  
24 investigation is?

25 A I never heard of Tier 3 investigation.



1 M. Cornell

2 Tier 3 hearing, Tier 3 disciplinary hearing.

3 Q Do you know what a Tier 3 hearing is?

4 A Yes.

5 Q What is that?

6 A It's basically like a trial for an  
7 inmate. It's the prison system's way of  
8 giving the inmate trial for disciplinary  
9 infraction.

10 Q That's conducted at the facility?

11 A Yes.

12 Q Do you know who conducts them? Not  
13 necessarily the person, but the job titles of  
14 the people who conducted that?

15 A It's a Tier 3 hearing officer.

16 Q Have you ever testified at a Tier 3  
17 hearing?

18 A Many of them.

19 MR. LEVY: Off the record.

20 (At this point in time, a  
21 discussion was held off the record.)

22 BY MR. LEVY:

23 Q Was there anything in the paperwork  
24 that you reviewed, relative to Inmate  
25 Donnesia Brown, that he had any gang

1 M. Cornell

2 affiliation?

3 A No.

4 Q Do you know an inmate that was at  
5 Auburn named Ozzborn Thomas?

6 A No, I don't.

7 Q Or named Thomas Ozzborn?

8 A No, I don't.

9 MR. LEVY: Can he be shown  
10 what's Bates stamp in Ozzborn v.  
11 Cornell, Bates stamped number 66.

12 Q Do you recognize this document as an  
13 inmate photograph?

14 A Yes, I do.

15 Q And this indicates on it the inmate's  
16 name in the photograph is a Thomas Ozzborn,  
17 correct?

18 A Yes.

19 Q And then the owning facility is  
20 Auburn, correct?

21 A Yes.

22 Q And the date that this was taken was  
23 February 17, 2015, correct?

24 A Yes.

25 Q I know it's not the best copy, but do

1 M. Cornell

2 you recognize the individual in the  
3 photograph?

4 A I do not.

5 MR. LEVY: Can he be shown  
6 number 62.

7 A Okay.

8 Q You've had a chance to read it?

9 A Yes.

10 Q After reading it, does it refresh your  
11 recollection as to this particular frisk that  
12 was done?

13 A Not at all.

14 Q This document, this is something that  
15 you wrote, correct?

16 A Yes.

17 Q And you've signed it at the bottom?

18 A Yes.

19 Q It's entirely your handwriting?

20 A Yes.

21 Q Who did you write this memorandum to?

22 A Sergeant Ederer.

23 MR. LEVY: E-D-E-R-E-R.

24 Q Do you know Sergeant Ederer's first  
25 name?

1 M. Cornell

2 A I believe John.

3 Q At the time you stopped working at  
4 Auburn, was Sergeant Ederer still there?

5 A Yes.

6 Q Do you know if he's still at Auburn?

7 A I don't know.

8 Q Can you describe Sergeant Ederer  
9 physically? What does he look like.

10 A He's a male, taller than me, leaner  
11 than me, longer hair than me. An inch taller  
12 than me. Five-eleven probably, 170 pounds.  
13 Dark hair. A little leaner than me though.

14 Q White?

15 A Yes.

16 Q Can you please read for the record,  
17 what you've written on your memorandum.

18 A "On the above date and approximate  
19 time while randomly frisking inmates out to  
20 the main yard I ordered Ozzborn, Thomas,  
21 09A5824 who occupied C-18-30 cell to submit  
22 to a pat frisk in the C and D corridor.  
23 During the pat frisk Ozzborn stated to me he  
24 had a weapon in his right shoe. I ordered  
25 Ozzborn to take off his right shoe and from



1 M. Cornell

2 that shoe I recovered a cutting type weapon  
3 that was sharpened to a point on one end and  
4 had black electrical tape for a handle on the  
5 other hand. The weapon measured approximately  
6 three and a half inches long by a quarter  
7 inch wide. Inmate Ozzborn stated to me that  
8 the weapon was his. The weapon appeared to  
9 be a half a pair of tweezers. The weapon was  
10 photographed, bagged and secured in evidence  
11 drop box per directive 4910A."

12 Q So this started as a pat frisk that  
13 was randomly performed on this Inmate Ozzborn  
14 Thomas as he was entering the yard, according  
15 to this document?

16 A As he was going to the yard, yes.

17 Q Is there any reason that he was  
18 selected?

19 A No, not one at all.

20 Q Do you know whether or not you had any  
21 prior dealings with this Inmate Ozzborn  
22 Thomas before this date?

23 A I don't know the man. I wouldn't have  
24 known him.

25 Q In May of 2017 were there any female

1 M. Cornell

2 correction officers working on your shift?

3 A I wouldn't know. I don't remember  
4 anyways.

5 Q You don't recall if there were any  
6 female correction officers that worked your  
7 shift?

8 A I'm sure there were.

9 Q You don't recall any of them?

10 A Not one of them.

11 Q Now, you've mentioned the C and D  
12 corridor previously. That's where this pat  
13 frisk of this inmate was conducted?

14 A Yes.

15 Q And according to this document, this  
16 Inmate Ozzborn was an inmate that was on the  
17 C block, right?

18 A Yes.

19 Q Does this document indicate what time  
20 of the day the frisk was done?

21 A I don't see a time on it.

22 Q So, according to this document this  
23 Inmate Ozzborn, he volunteered to you that he  
24 had some type of weapon on him?

25 A Yes. Inmates done that a lot to me.

1 M. Cornell

2 Q Prior to this date did you know  
3 whether or not this inmate had ever faced any  
4 disciplinary charges at the facility?

5 A No.

6 Q According to this document, was this  
7 Inmate Ozzborn courteous during this  
8 encounter?

9 MS. COWAN: Objection.

10 A I don't know what the word is, but he  
11 wasn't bad behavior -- whatever the  
12 terminology you want to use.

13 Q According to this document you  
14 photographed, bagged and secured this  
15 evidence in the drop box; is that right?

16 A Yeah.

17 MR. LEVY: I'd like you to take  
18 a look at, I think you have it on 63  
19 and 64, you have it on 65 as well. I  
20 don't think any one is better than the  
21 other.

22 Is he's looking at number 63?

23 MS. COWAN: Yes.

24 Q So, 63, do you recognize what this  
25 shows?

1 M. Cornell

2 A Yeah, I do.

3 Q What is it?

4 A That's a fashioned makeshift prison  
5 weapon.

6 Q This appears to be, according to that  
7 memorandum you just read, the item that was  
8 recovered from the person of that Inmate  
9 Ozzborn, Thomas?

10 A Yes.

11 Q This also indicates that you were not  
12 the photographer of this, right, that was  
13 somebody else, a different CO?

14 A That's what it says, yes.

15 Q Do you know who that is?

16 A The CO K.W. Lange. I didn't know him  
17 that well, no.

18 MR. LEVY: Do you have, I  
19 believe, it's number 67 or 68, do you  
20 have either of those?

21 MS. COWAN: I have both 67.

22 Q If you can take a look at those.

23 Take a look at 67. Do you recognize  
24 what that is?

25 A Yes, I do.



1 M. Cornell

2 Q What is it?

3 A That's an evidence bag.

4 Q The handwriting that's on that, is  
5 that your handwriting?

6 A Yes, it is.

7 Q Can you just go through what you've  
8 written on this.

9 A Auburn Correctional Facility, the  
10 agency. Case Number would be the unusual  
11 incident number. Offense: 113.10 would be  
12 the weapon institutional violation. Suspect:  
13 Would be the Inmate Ozzborn, and the  
14 department identification number. No victim  
15 obviously. Date and time of recovery -- what  
16 does it say? May 9th, is it? May 9, 2015,  
17 approximately 7:45 p.m. Recovered by myself  
18 M. Cornell. Description and/or location:  
19 Cutting type weapon measuring three and a  
20 half inches long by a quarter-inch wide  
21 sharpened to a point on one end and had a  
22 black electrical tape handle on other.

23 And then it has a Chain of Custody  
24 portion from myself, M. Cornell, to evidence  
25 drop box on the date, May 9, 2015.

1 M. Cornell

2 Q Toward the bottom there that appears  
3 to be the item that you recovered?

4 A Yeah.

5 Q If you look at the other page 68, the  
6 reverse side of the bag that would be a  
7 clearer picture, I think. That appears to be  
8 what you recovered?

9 A Yes.

10 MR. LEVY: Can he be shown  
11 number 60.

12 A Okay.

13 Q Do you recognize what this is?

14 A Yes, I do.

15 Q What is it?

16 A It's an Inmate Misbehavior Report.

17 Q Is this something that you filled out?

18 A Yes, I did.

19 Q Other than the information towards the  
20 bottom of the page, this is in your  
21 handwriting?

22 A Correct.

23 Q This Misbehavior Report is something  
24 you created for Auburn Correctional Facility,  
25 correct?

1 M. Cornell

2 A Yes.

3 Q It indicates that the inmate is an  
4 Ozzborn, Thomas?

5 A Yes.

6 Q It has his identification number as  
7 well as his housing location, right?

8 A Yes.

9 Q The location of the incident you have  
10 indicated is C and D corridor?

11 A Yes.

12 Q It has the date of the incident as  
13 5/9/15?

14 A Yes.

15 Q And you've indicated the approximate  
16 time of this is 7:45 p.m., correct?

17 A That's correct.

18 Q You've indicated what rule violation  
19 this inmate had based upon this search, and  
20 what have you put there?

21 A 113.10 weapon; 113.11 altered item.

22 Q You've also written out a description  
23 of the incident, right?

24 A Yes.

25 Q Can you please read into the record

1 M. Cornell

2 what you've written.

3 A (Reading): On the above date and  
4 approximate time while randomly pat frisking  
5 inmates out to the main yard, I ordered  
6 Ozzborn, T. 09A5824 who occupied C-18-30 cell  
7 to submit to a pat frisk in the C and D  
8 corridor. During the pat frisk Ozzborn  
9 stated to me that he had a weapon in his  
10 right shoe. I ordered Ozzborn to take off  
11 his right shoe and from that shoe I recovered  
12 a cutting type weapon that was sharpened to a  
13 point on one end and had black electrical  
14 tape for a handle on the other end. The  
15 weapon measured approximately three and a  
16 half inches long by a quarter inch wide.  
17 Inmate Ozzborn stated to me that the weapon  
18 was his. The weapon was photographed, bagged  
19 and secured in the evidence drop box per  
20 directive 49108A. The weapon appeared to be  
21 a half a pair of tweezers.

22 Q You completed this report on May 9,  
23 2015, correct?

24 A Yes.

25 Q And you've signed it, right?



1 M. Cornell

2 A Yep -- yes.

3 Q This also indicates towards the bottom  
4 of this page that no other inmates were  
5 involved, right?

6 A Yes.

7 Q It indicates at the time of the  
8 incident the inmate was not under  
9 confinement. Meaning, he was walking in the  
10 corridor towards the yard, correct?

11 A Correct.

12 Q It says as a result of this incident  
13 he was confined, correct?

14 A Yes, that's correct.

15 Q It also indicates that as a result of  
16 this incident he was moved or assigned to  
17 another housing unit?

18 A Yes.

19 Q Where was he moved?

20 A SHU-D C-5.

21 Q That C-5, that's the cell number in  
22 the SHU area?

23 A Yes. That's what they call the tank,  
24 and then the cell number within the tank. C  
25 tank, 5 cell.

1 M. Cornell

2 Q Also, it says that physical force was  
3 not used, correct, in conducting this search?

4 A Correct.

5 Q That move of Ozzborn to the SHU area  
6 was authorized, according to this document,  
7 by Lieutenant Vasile?

8 A Yes.

9 Q Officer Cornell, did you plant this  
10 item on this Inmate Ozzborn, Thomas?

11 A No, I did not.

12 Q Do you know if any other correction  
13 officers planted this item on this Inmate  
14 Ozzborn, Thomas?

15 A No, I would not know that.

16 Q During the frisk of this inmate  
17 Ozzborn, Thomas, was Sergeant Ederer present  
18 for it?

19 A He was probably in the corridor.

20 Q The rule violations that this Inmate  
21 Ozzborn had, do you know if that resulted in  
22 having a Tier 3 hearing?

23 A Yes. If it's a weapon it's always a  
24 Tier 3.

25 Q Do you know whether or not you

1 M. Cornell

2 testified at that Tier 3 hearing?

3 A I don't recall.

4 Q Do you know what the result of the  
5 charges from the Tier 3 hearing was against  
6 this inmate?

7 A No, I never paid attention to that.

8 Q Do you know what the result of the  
9 Tier 3 hearing was against Inmate Donnesia  
10 Brown?

11 A No, I never paid attention to that  
12 stuff.

13 Q Do you know if this Inmate Ozzborn,  
14 Thomas, received any outside charges from the  
15 Cayuga County District Attorney's office as a  
16 result of this frisk that you conducted?

17 A I did not know.

18 Q Do you know whether or not you  
19 testified at any criminal proceeding against  
20 this Inmate Ozzborn, Thomas?

21 A I don't recall.

22 Q Do you know if you've testified in any  
23 criminal proceeding against the Inmate  
24 Donnesia Brown?

25 A I don't recall.

1 M. Cornell

2 Q Did you set up this Inmate Ozzborn,  
3 Thomas with this contraband?

4 THE WITNESS: Didn't I already  
5 answer that?

6 MS. COWAN: Just go ahead and  
7 answer.

8 A No, I didn't.

9 Q Do you know of any reason that any  
10 other officer at Auburn would have set this  
11 inmate up?

12 A No.

13 Q Did you review any transcript of any  
14 Tier 3 hearing relative to the charges  
15 against Ozzborn, Thomas?

16 A I've never done that. I wouldn't have  
17 done that, is my point.

18 Q Did you review any prior testimony  
19 that you gave regarding either of these two  
20 Inmates, Donnesia Brown or Ozzborn, Thomas,  
21 before testifying here today?

22 A Vaguely.

23 Q From what?

24 A From what Aimee gave me.

25 Q What I'm asking is from what



1 M. Cornell

2 proceeding was it?

3 A Rephrase.

4 MS. COWAN: It was redacted  
5 transcript. I gave him the redacted  
6 version I've given you.

7 MR. LEVY: So that's what I'm  
8 asking.

9 Q Did you review the transcript from the  
10 departmental hearing?

11 A I'm still not understanding this.  
12 You're asking me did I -- one more time  
13 please.

14 MS. COWAN: Did I give you the  
15 redacted transcript from the hearing  
16 of Browciano (phonetic)?

17 THE WITNESS: I thought he was  
18 talking about Ozzborn and Brown?

19 MS. COWAN: He's saying any  
20 prior testimony.

21 A No. Listen, I read this once vaguely  
22 for a moment. I read Brown's vaguely, that's  
23 the only thing I've reviewed since 2015 when  
24 I wrote this ticket.

25 So, that's the first time I've even

1 M. Cornell  
2 looked at this since when I seen it the other  
3 day when Aimee gave me this ticket, the first  
4 time I seen it was four years now.

5 MS. COWAN: I didn't give you  
6 the transcript.

7 THE WITNESS: I'm confused now  
8 about the transcript.

9 MS. COWAN: I was going to give  
10 him the redacted transcript that I had  
11 given you. I ended up not giving it  
12 to him because he didn't have time to  
13 look at it.

14 So, what he reviewed is pretty  
15 much what you've gone over today which  
16 are these misbehavior tickets and the  
17 memos.

18 Q Fair enough. I'm just trying to get a  
19 sense of what you looked at.

20 MS. COWAN: He didn't look at  
21 any Tier 3 transcripts, that's for  
22 sure.

23 A And I wouldn't have cared.

24 Q You didn't look at any Tier 3  
25 transcripts, and you didn't look at any

1 M. Cornell

2 testimony from any hearing with the  
3 Department of Corrections?

4 A No, not one.

5 MR. LEVY: Can we take a short  
6 break right now?

7 MS. COWAN: Sure.

8 MR. LEVY: Let's take a  
9 15-minute break.

10 (At this point in time, a brief  
11 recess was taken.)

12 BY MR. LEVY:

13 Q In the C and D corridor, are you aware  
14 of any video or audio recording devices that  
15 are there?

16 A I guess there's audio somewhere, but I  
17 don't remember where it is.

18 Q But not video?

19 A There's no video there. Not then. I  
20 don't know if there is now.

21 Q How about in that center room where  
22 the search of Inmate Brown was done, is there  
23 any video or audio there?

24 A No.

25 Q Did you ever store items of contraband

1 M. Cornell

2 in your locker?

3 A Not that I would consider contraband,  
4 but, I guess, there was contraband in the  
5 locker that I kind of owned. I don't know  
6 how to explain it to you. To me, screws,  
7 nuts and bolts didn't pertain to me as  
8 contraband but...

9 Q Did you ever place any weapons in your  
10 locker that were found on inmates?

11 A No. Nope.

12 Q During your time at Auburn, did you  
13 always use the same locker?

14 A I don't recall.

15 Q Did you ever plant a weapon on an  
16 inmate at Auburn?

17 A Never.

18 Q In December of 2016 you were suspended  
19 from your job at Auburn, correct?

20 A Yes.

21 Q Why were you suspended?

22 MS. COWAN: Objection. Go  
23 ahead.

24 A Because I had a rifle in my vehicle.

25 Q And that rifle was not your rifle?



1 M. Cornell

2 A It was my rifle.

3 Q You were suspended for having a rifle  
4 in your vehicle that was your own rifle?

5 A Yes.

6 Q Were you suspended for having weapons  
7 that were found on inmates in your vehicle?

8 MS. COWAN: Objection. Go  
9 ahead.

10 A No.

11 Q Do you know why having a rifle in your  
12 vehicle was cause for a suspension?

13 A Because at the time, I guess, it was  
14 on state property, the vehicle.

15 Q How long did the suspension last?

16 A Until I resigned, and I don't know  
17 what day I resigned. Sometime in 2017. I  
18 really don't know what date.

19 Q You resigned as a corrections officer?

20 A Yes.

21 Q How did you go about doing that?

22 A I figured there was not going to be a  
23 chance to come back and be able to do what I  
24 was still doing. Frisking, and all that type  
25 of stuff.

1 M. Cornell

2 Q Why is that?

3 A I don't know how to put it in words.

4 Q Were you fired?

5 A No.

6 Q I'm looking at a letter that's dated  
7 February 27, 2018 that is signed by you to  
8 Harold Graham, superintendent of Auburn  
9 Correctional Facility. It says, "Dear Mr.  
10 Graham, I hereby resign effective immediately  
11 for personal reasons."

12 Is that something you wrote?

13 A Yeah.

14 Q Is that date of February 27, 2018,  
15 does that sound right to you?

16 A Yeah. It must be, yeah.

17 Q So until you wrote that letter, were  
18 you suspended for the entire time, December  
19 '16 through that time of this letter?

20 A Yes.

21 Q Was your resignation accepted by the  
22 Department of Corrections?

23 A Yes, it was.

24 Q Do you know when that was effective?

25 A I don't. I really don't. I know I

1 M. Cornell

2 got my rifle back and that's all I cared  
3 about, getting my rifle back.

4 Q Did you ever admit to planting a  
5 weapon on an inmate for the purposes of  
6 breaking up a gang fight?

7 A Never.

8 Q Are you aware that there are multiple  
9 individuals that had their convictions of  
10 possession of prison contraband overturned as  
11 a result of your actions?

12 MS. COWAN: Objection.

13 A What do you mean by "actions"?

14 MS. COWAN: I object to that  
15 question how it's posed.

16 Q Are you aware that there are several  
17 individuals that had charges of promoting  
18 prison contraband, that convictions were  
19 overturned based upon the fact that you were  
20 the sole complaining witness to those cases?

21 MS. COWAN: I object to that  
22 again. I think that's maybe your  
23 characterization. I don't think that  
24 is the truth characterization. I  
25 think there is a different way to ask

1 M. Cornell,

2 that.

3 Q Are you aware that there are several  
4 individuals whose convictions for promoting  
5 prison contraband were overturned in which  
6 you had done a pat frisk or frisk of that  
7 individual?

8 A Listen, I never asked them to go after  
9 them individuals, you know. I didn't care  
10 which way they went. I was performing my  
11 job. That's what I did. I didn't care if  
12 the DA's office picked up their charge or  
13 whatever. That didn't bother me one bit. It  
14 didn't bother me that the convictions got  
15 overturned. That does not affect me one bit.

16 Q So you are aware that there are  
17 individuals that had convictions overturned?

18 A I am, but it is what it is.

19 Q When you'd conduct a frisk of an  
20 inmate for each search, if something was  
21 found you would create a misbehavior report,  
22 correct?

23 A That's too vague. What do you mean  
24 each search? I can search somebody and not  
25 find something.



1 M. Cornell

2 Q But my question was: If you conducted  
3 a search of an inmate and something was found  
4 on them, you would create a misbehavior  
5 report?

6 A What's "something"?

7 Q In you found a weapon?

8 A Weapon absolutely all the time.

9 Q If you found contraband on them you  
10 would create a Misbehavior Report, correct?

11 A A weapon, absolutely. Contraband?  
12 Too many cigarettes I wouldn't care about.

13 Q But certainly a weapon on an inmate  
14 would create a Misbehavior Report?

15 A Absolutely.

16 Q Do you know how many Misbehavior  
17 Reports you created in the year 2013?

18 A No, I don't.

19 Q If I told you it was one Misbehavior  
20 Report for a weapon, would that sound right?

21 A Could be.

22 Q Do you know how many Misbehavior  
23 Reports you created in the year 2014?

24 A No, I don't.

25 Q If I told you it was four reports,

1 M. Cornell

2 does that sound right?

3 A If that's what it says, yes, it does.

4 Q Do you know how many Misbehavior  
5 Reports you created in the year 2015?

6 A No, I don't.

7 Q If I told you it was 19 reports, does  
8 that sound right?

9 A Yes.

10 Q If I told you that the second most for  
11 that year by any other officer was nine, does  
12 that sound right?

13 A I wouldn't know.

14 Q Do you know how many Misbehavior  
15 Reports you created for the year 2016?

16 A No, I don't.

17 Q If I told you that it was a total of  
18 23 Misbehavior Reports, does that sound  
19 correct?

20 A Sure.

21 Q If I told you that the second most by  
22 any other correction officer was seven, does  
23 that sound right?

24 MS. COWAN: Objection.

25 A I wouldn't know.

Page 96  
November 21, 2019

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M. Cornell

Q If in the years 2015 and 2016 the  
number of Misbehavior Reports you created was  
increased to 19 and 23 respectively from one  
and four the two years prior, can you explain  
the increase in the activity?

MS. COWAN: Objection.

A I was damn good at it.

MR. LEVY: I think we'll leave  
it at that.

Thank you for your time.

(Time noted: 1:45 p.m.)

-----  
MATTHEW CORNELL

Subscribed and Sworn to before me  
this            day of            , 2019.

-----  
Notary Public

Page 97  
November 21, 2019

1 M. Cornell

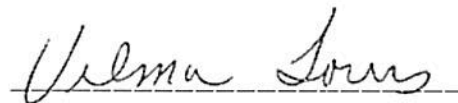
2 C E R T I F I C A T E

3 I, VILMA TORRES, hereby certify that the  
4 VIDEOCONFERENCE DEPOSITION held before me on the  
5 21st day of November, 2019; that said witness was  
6 duly sworn before the commencement of testimony;  
7 that the testimony was taken stenographically by  
8 myself and then transcribed by myself; that the  
9 party was represented by counsel as appears herein;

10 That the within transcript is a true record  
11 of the VIDEO CONFERENCE DEPOSITION of said witness;

12 That I am not connected by blood or marriage  
13 with any of the parties; that I am not interested  
14 directly or indirectly in the outcome of this  
15 matter; that I am not in the employ of any of the  
16 counsel.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this 25th day of November, 2019.

21   
22

23 VILMA TORRES, RPR, CSR  
24  
25



November 21, 2019

Page 98

<b>A</b>	92:4	5:4,6,14 13:7,8	<b>areas (1)</b>	16:11,14,15
<b>a.m (2)</b>	<b>adopt (1)</b>	13:10 17:23	24:17	20:24 24:18
1:23 39:8	26:10	18:2 23:21	<b>arm (1)</b>	25:23 29:7
<b>able (1)</b>	<b>affect (1)</b>	35:4 45:6	31:14	34:24 35:14
90:23	93:15	46:11 49:16	<b>Army (4)</b>	36:6,25 38:6
<b>absolutely (5)</b>	<b>affiliation (1)</b>	85:5,7	8:3,4 9:4,13	38:12,15,18
30:14 44:4	71:2	<b>answered (2)</b>	<b>arrival (1)</b>	38:19 43:25
94:8,11,15	<b>affixed (1)</b>	5:2 18:3	44:16	47:22,25 49:6
<b>academy (3)</b>	18:7	<b>anticipate (1)</b>	<b>arrive (2)</b>	49:14 52:20
29:24,25 30:4	<b>afforded (1)</b>	35:11	17:19 36:6	52:24 55:8
<b>accepted (1)</b>	22:4	<b>anymore (2)</b>	<b>arsenal (2)</b>	71:5,20 73:4
91:21	<b>afternoon (2)</b>	29:11 42:25	37:6,8	73:6 78:9
<b>access (3)</b>	19:6 56:18	<b>anyplace (1)</b>	<b>asked (3)</b>	79:24 85:10
38:14 56:12	<b>against- (2)</b>	31:14	5:13 54:6 93:8	89:12,16,19
57:3	1:7,14	<b>anytime (2)</b>	<b>asking (12)</b>	91:8
<b>accident (1)</b>	<b>agency (1)</b>	12:3 63:10	4:17,24 5:5	<b>audio (3)</b>
44:24	78:10	<b>anyways (1)</b>	16:23 35:10	88:14,16,23
<b>Accidentally ...</b>	<b>agents (1)</b>	75:4	39:16 55:16	<b>Aurora (1)</b>
44:23	37:10	<b>appeared (2)</b>	68:14,15	4:10
<b>accommodat...</b>	<b>agree (1)</b>	74:8 81:20	85:25 86:8,12	<b>authorizatio...</b>
5:11	6:24	<b>appears (4)</b>	<b>assaults (1)</b>	32:15,23 33:17
<b>achieve (1)</b>	<b>AGREED (3)</b>	77:6 79:2,7	22:8	<b>authorized (6)</b>
11:13	3:3,8,12	97:9	<b>assigned (9)</b>	3:14 32:6 51:5
<b>acronym (1)</b>	<b>agreeing (2)</b>	<b>approximate ...</b>	23:18 24:16	60:9 65:3
16:20	6:3,10	50:22 52:7	36:12,16,19	83:6
<b>acting (1)</b>	<b>ahead (3)</b>	64:20 73:18	36:22 38:11	<b>awaiting (1)</b>
65:22	85:6 89:23	80:15 81:4	39:13 82:16	27:7
<b>Action (2)</b>	90:9	<b>approximate...</b>	<b>assignment (3)</b>	<b>aware (6)</b>
1:6,13	<b>ahold (1)</b>	10:16 12:15,20	9:15 27:10,16	44:2 88:13
<b>actions (2)</b>	54:9	14:22 16:2	<b>assume (1)</b>	92:8,16 93:3
92:11,13	<b>Aimee (5)</b>	17:8,16 20:4	26:7	93:16
<b>activity (1)</b>	2:11 48:4 56:2	21:19 27:10	<b>assumed (1)</b>	
96:6	85:24 87:3	28:10 51:10	5:3	<b>B</b>
<b>addition (2)</b>	<b>allowed (1)</b>	53:22 60:21	<b>attention (2)</b>	<b>B (5)</b>
28:2,6	26:19	62:12 64:4	84:7,11	13:3,5,17
<b>address (2)</b>	<b>altered (2)</b>	65:8 74:5	<b>ATTORNEY...</b>	20:21 21:11
4:9 12:12	64:8 80:21	78:17 81:15	1:21 2:9	<b>back (13)</b>
<b>administer (1)</b>	<b>amenities (1)</b>	<b>arborist (1)</b>	<b>Attorney's (1)</b>	7:13 18:21
3:14	22:4	8:21	84:15	19:2 23:17
<b>administrati...</b>	<b>ammunition ...</b>	<b>area (15)</b>	<b>attorneys (3)</b>	25:9 26:23
29:5 35:21	45:16	27:12 31:25	2:3,9 3:4	31:19 34:10
41:19	<b>amount (1)</b>	33:15 37:19	<b>Auburn (47)</b>	57:11,12
<b>admissible (1)</b>	13:11	38:7,10 39:17	10:24 11:2,8	90:23 92:2,3
6:25	<b>and/or (1)</b>	44:12 51:4,8	12:8,13,14,21	<b>bad (1)</b>
<b>admit (1)</b>	78:18	61:11 65:2,6	13:16,23 14:5	76:11
	<b>answer (15)</b>	82:22 83:5	14:11,14	<b>bag (3)</b>

November 21, 2019

Page 99

41:7 78:3	18:2 34:25	<b>blood (1)</b>	44:21	80:10 81:7
79:6	35:3 71:25	97:12	<b>Browciano (1)</b>	82:24 88:13
<b>bagged (7)</b>	<b>better (2)</b>	<b>Bloods (1)</b>	86:16	97:2,2
51:14 65:13	51:22 76:20	44:7	<b>Brown (47)</b>	<b>C-18-30 (2)</b>
67:19 69:9	<b>bid (1)</b>	<b>blue (2)</b>	1:11 6:9,14,21	73:21 81:6
74:10 76:14	14:15	25:24,24	48:2,7,19	<b>C-5 (2)</b>
81:18	<b>big (4)</b>	<b>body (1)</b>	49:11 50:9,11	82:20,21
<b>band (1)</b>	22:15 46:13,16	61:21	50:23,24 51:2	<b>C12 (9)</b>
31:19	53:21	<b>bolts (1)</b>	51:6,7 53:3,5	14:18,21,25
<b>barber (3)</b>	<b>biggest (2)</b>	89:7	54:3,9 55:2	15:25 18:6,7
24:6,7,9	17:10 22:7	<b>book (1)</b>	55:11 59:21	25:5 27:10,15
<b>barehanded ...</b>	<b>bit (2)</b>	47:19	60:16 62:24	<b>call (8)</b>
58:19,21	93:13,15	<b>boss (1)</b>	64:3,21,23,25	18:25 23:10
<b>based (4)</b>	<b>black (3)</b>	24:10	65:3,5 66:5,9	24:13 29:2,4
55:16,20 80:19	74:4 78:22	<b>bother (2)</b>	66:13 67:19	29:11 39:5
92:19	81:13	93:13,14	68:10,20,25	82:23
<b>basic (2)</b>	<b>block (62)</b>	<b>bottom (7)</b>	69:4,7,17,20	<b>called (7)</b>
4:21 22:3	14:21,25 15:7	50:17 60:7	70:25 84:10	4:16,19 14:17
<b>basically (9)</b>	15:19,20,23	63:23 72:17	84:24 85:20	24:20 33:18
8:21 13:11,20	15:24 17:9,10	79:2,20 82:3	86:18 88:22	38:5 49:3
19:10 24:25	17:10,11,13	<b>box (18)</b>	<b>Brown's (5)</b>	<b>calls (1)</b>
47:5 58:2	17:17,18	18:25 41:8,14	51:3 55:8	40:18
61:20 70:6	18:21,23 20:9	46:18 47:2,8	61:10 64:25	<b>camera (2)</b>
<b>basis (1)</b>	22:14,15,19	51:14 57:25	86:22	43:11,13
61:6	22:23,24 23:4	61:13 64:13	<b>brushes (1)</b>	<b>Capacity (2)</b>
<b>Bates (9)</b>	23:5,6,7,8,11	65:14 66:16	8:22	1:9,16
48:5,12,22	23:12,21,22	67:21 69:11	<b>building (4)</b>	<b>caption (1)</b>
51:19 59:13	23:23 24:3,7	74:11 76:15	29:5 35:21	59:22
59:20 62:23	24:8,12,14,17	78:25 81:19	39:23 41:19	<b>car (1)</b>
71:10,11	24:25 26:20	<b>branch (1)</b>	<b>buttocks (5)</b>	45:23
<b>baton (3)</b>	26:24 27:6,7	8:2	51:3,8 61:11	<b>care (6)</b>
26:4,14 27:2	27:20,21	<b>break (5)</b>	65:2,6	10:5,20 14:24
<b>batons (1)</b>	28:17 38:21	5:9,11,12 88:6	<b>C</b>	93:9,11 94:12
37:10	39:3,6 51:6	88:9	<b>C (37)</b>	<b>cared (3)</b>
<b>Beacon (1)</b>	53:10,12,14	<b>breakfast (1)</b>	2:2 4:2 14:21	55:5 87:23
9:17	53:18,19	40:11	15:19,24	92:2
<b>beard (1)</b>	56:12 57:6	<b>breaking (1)</b>	17:11,13,18	<b>career (1)</b>
25:9	58:10,11 61:2	92:6	20:9,22 21:8	11:16
<b>behavior (1)</b>	65:4 75:17	<b>brief (2)</b>	21:15 22:14	<b>carry (3)</b>
76:11	<b>blocks (17)</b>	56:8 88:10	22:15,19,23	25:25 26:13
<b>believe (3)</b>	15:10,14,19,23	<b>broad (3)</b>	23:3,6,7,11	27:2
18:15 73:2	16:13,15 17:3	18:4 29:19	23:21,22 24:3	<b>case (4)</b>
77:19	17:11 19:3,4	38:24	24:8,12,16,25	5:25 6:6 45:17
<b>bend (1)</b>	20:6,7,22,23	<b>Brooklyn (1)</b>	58:9 73:22	78:10
31:21	23:3 26:16	2:4	75:11,17	<b>cases (5)</b>
<b>best (4)</b>	67:16	<b>brought (1)</b>		5:22,24 6:4,15



November 21, 2019

Page 100

<b>cause (1)</b> 90:12	<b>characterizat...</b> 92:23,24	<b>comes (1)</b> 65:25	<b>conduct (17)</b> 30:16 32:17,20	94:9,11
<b>Cayuga (2)</b> 69:21 84:15	<b>charge (4)</b> 14:21,23 15:24	<b>coming (1)</b> 58:6	32:22 33:11	<b>control (3)</b> 10:5,20 14:25
<b>cell (31)</b> 13:25 14:2,5,6 14:11 20:7 33:19,22,23 33:25 34:3,6 38:22 39:7,15 40:6 50:24,25 53:5,10 57:5 57:9,13 64:22 64:23 67:15 73:21 81:6 82:21,24,25	93:12	<b>Command (1)</b> 40:20	34:7,17,23 42:22 51:5 53:3 54:7 58:18 60:13 62:19 64:21 93:19	<b>convictions (5)</b> 92:9,18 93:4 93:14,17
	<b>charges (7)</b> 64:9 69:20 76:4 84:5,14 85:14 92:17	<b>Commander ...</b> 29:2 40:18 41:23 42:12 47:18 57:25	<b>conducted (10)</b> 53:15 54:20 55:7 58:24 60:18 70:10 70:14 75:13 84:16 94:2	<b>copy (1)</b> 71:25
	<b>checked (1)</b> 61:13	<b>Commander'...</b> 41:16 43:10		<b>Cornell (116)</b> 1:9,16,19 2:1 3:1 4:1,8,14 5:1,20 6:1 7:1 7:7 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1,7 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1,10 49:1 49:22 50:1 51:1 52:1,5 53:1 54:1 55:1 56:1 57:1 58:1 59:1,19,21 60:1 61:1 62:1,22,24 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1,11 72:1
	<b>chemical (1)</b> 37:9	<b>Commander...</b> 41:20	<b>conducting (7)</b> 34:15 49:10,14 54:2 61:24 68:21 83:3	
	<b>chow (5)</b> 13:20,21,24 14:3 39:5	<b>commencem...</b> 97:6	<b>conducts (1)</b> 70:12	
<b>cell-frisk (1)</b> 34:16	<b>cigarettes (1)</b> 94:12	<b>common (2)</b> 46:7,12	<b>conference (2)</b> 56:4 97:11	
<b>cellar (2)</b> 35:21 37:22	<b>City (1)</b> 11:4	<b>COMMUNI...</b> 1:8,15	<b>confined (3)</b> 66:20,22 82:13	
<b>cells (2)</b> 21:22 57:11	<b>Civil (2)</b> 1:6,13	<b>companies (3)</b> 15:13,20,23	<b>confinement ...</b> 67:11,14 82:9	
<b>center (7)</b> 51:6 53:16 54:17,18 61:2 65:4 88:21	<b>classroom (2)</b> 29:21,23	<b>company (16)</b> 14:20,21,25 15:4,6,7,7,8,8 15:8,9,24 51:2 53:10 61:12 64:24	<b>confines (1)</b> 39:24	
<b>Central (1)</b> 12:11	<b>clean (2)</b> 25:9,13	<b>complaining ...</b> 92:20	<b>confused (1)</b> 87:7	
<b>certain (1)</b> 19:12	<b>cleanup (1)</b> 8:22	<b>complete (4)</b> 24:10 62:15 63:8 69:11	<b>connected (1)</b> 97:12	
<b>certainly (1)</b> 94:13	<b>clearer (1)</b> 79:7	<b>completed (3)</b> 63:14 65:16 81:22	<b>consider (1)</b> 89:3	
<b>certification ...</b> 3:5	<b>clips (2)</b> 26:5,15	<b>Completely (1)</b> 54:14	<b>contaminatio...</b> 59:7	
<b>certify (1)</b> 97:3	<b>clock (1)</b> 62:13	<b>complicated ...</b> 23:20	<b>contraband (...)</b> 33:24 40:14,16 40:22,23 43:2 43:15 44:20 46:8,17,24 47:21 65:11 85:3 88:25 89:3,4,8 92:10,18 93:5	
<b>Chain (1)</b> 78:23	<b>close (2)</b> 20:6 25:19	<b>computer (1)</b> 38:14		
<b>chairs (1)</b> 58:2	<b>closed (1)</b> 18:23	<b>conceal (1)</b> 31:15		
<b>chance (3)</b> 59:24 72:8 90:23	<b>cloth (2)</b> 51:12 65:10	<b>concern (1)</b> 59:6		
<b>change (3)</b> 18:24 35:17 56:15	<b>clothes (2)</b> 36:7 54:13			
	<b>come (7)</b> 6:21 34:4 36:9 41:23 58:9 61:20 90:23			

November 21, 2019

Page 101

73:1 74:1	12:9,22 78:9	29:16 30:25	<b>cutting (3)</b>	91:6
75:1 76:1	79:24 91:9	31:6 32:9	74:2 78:19	<b>dates (1)</b>
77:1 78:1,18	<b>corrections (...)</b>	35:9 38:23	81:12	24:21
78:24 79:1	1:8,9,15,16,19	42:4,7,10	<b>cutting-type-...</b>	<b>day (15)</b>
80:1 81:1	9:7,9,12,16	45:5 46:10	45:12	13:13 16:5
82:1 83:1,9	11:5,7,18	48:6,9 49:16	<b>D</b>	18:22 19:13
84:1 85:1	12:5 88:3	49:21 51:16	<b>D (33)</b>	56:11,19,19
86:1 87:1	90:19 91:22	51:20 55:12	16:21 17:16	56:21,25
88:1 89:1	<b>correctly (1)</b>	55:20 56:6	20:23 21:9,15	75:20 87:3
90:1 91:1	39:25	59:11 76:9,23	22:24 23:7,12	90:17 96:18
92:1 93:1	<b>corridor (12)</b>	77:21 85:6	23:23 24:3,7	97:5,18
94:1 95:1	21:13,15,18	86:4,14,19	50:11,23 51:6	<b>days (1)</b>
96:1,15 97:1	58:4,9 73:22	87:5,9,20	53:10,11,14	41:22
<b>correct (45)</b>	75:12 80:10	88:7 89:22	53:18,19 54:2	<b>deal (2)</b>
10:18 11:6	81:8 82:10	90:8 92:12,14	55:2,8,11	46:13,16
14:13 16:12	83:19 88:13	92:21 95:24	56:12 58:11	<b>dealings (1)</b>
17:5 25:7	<b>counsel (2)</b>	96:7	61:2 64:21	74:21
30:22 32:16	97:9,16	<b>crack (1)</b>	65:3 73:22	<b>Dear (1)</b>
40:7 49:3,7	<b>counselor (2)</b>	13:25	75:11 80:10	91:9
50:12 56:24	18:5 39:2	<b>create (5)</b>	81:7 88:13	<b>December (7)</b>
57:10 61:4,5	<b>count (2)</b>	47:2 93:21	<b>D-4 (3)</b>	9:23 10:15
61:7 62:7,16	20:8 21:25	94:4,10,14	50:25 61:11	11:19,23 45:2
62:21 63:14	<b>Counting (1)</b>	<b>created (6)</b>	64:24	89:18 91:18
63:24 64:4	21:24	79:24 94:17,23	<b>D-4-37 (3)</b>	<b>decide (1)</b>
66:17,18,20	<b>County (2)</b>	95:5,15 96:3	50:24 53:5	7:3
71:17,20,23	69:21 84:15	<b>creating (1)</b>	64:22	<b>decided (1)</b>
72:15 79:22	<b>couple (1)</b>	5:22	<b>D5 (2)</b>	6:11
79:25 80:16	58:10	<b>criminal (2)</b>	24:20,21	<b>defendant (2)</b>
80:17 81:23	<b>course (1)</b>	84:19,23	<b>DA's (2)</b>	1:18 5:21
82:10,11,13	13:12	<b>cropped (1)</b>	69:21 93:12	<b>Defendants (3)</b>
82:14 83:3,4	<b>court (4)</b>	25:19	<b>damn (1)</b>	1:10,17 2:9
89:19 93:22	1:2 2:4 3:16	<b>crossover (2)</b>	96:8	<b>definitely (1)</b>
94:10 95:19	5:7	23:10 24:13	<b>Dan (2)</b>	47:12
<b>correction (20)</b>	<b>courteous (1)</b>	<b>CSR (1)</b>	8:14,16	<b>delivered (1)</b>
9:25 10:4,11	76:7	97:23	<b>dark (2)</b>	8:24
11:11,14	<b>cover (3)</b>	<b>cube (1)</b>	25:24 73:13	<b>department (...)</b>
14:11 20:8	6:14 15:10,14	14:7	<b>date (15)</b>	1:8,15 9:6,8,12
21:3 24:9	<b>covered (1)</b>	<b>current (1)</b>	6:12 50:21	9:16 11:4
25:22 27:11	30:6	7:10	52:4 60:17	12:4 78:14
27:16 29:15	<b>Cowan (53)</b>	<b>currently (2)</b>	64:19 71:22	88:3 91:22
30:12 35:14	2:11 5:19 6:2	8:11,13	73:18 74:22	<b>departmenta...</b>
67:12 75:2,6	6:20 7:4 13:6	<b>custody (4)</b>	76:2 78:15,25	86:10
83:12 95:22	13:9 16:22	10:5,20 14:24	80:12 81:3	<b>depend (1)</b>
<b>correctional ...</b>	17:22 18:2	78:23	90:18 91:14	56:21
9:18 10:9,24	20:18 22:17	<b>customers (1)</b>	<b>dated (1)</b>	<b>depends (1)</b>
11:2,8,25	26:8 27:19	8:24		40:23



November 21, 2019

Page 102

<b>deposit (1)</b> 46:24	97:14	66:13 70:25	<b>education (1)</b> 7:20	2:3
<b>deposition (5)</b> 1:18 3:13 4:19 97:4,11	<b>discharge (2)</b> 8:9 9:4	84:9,24 85:20	<b>effect (1)</b> 3:15	<b>evening (3)</b> 56:20,23 58:8
<b>depositions (1)</b> 6:16	<b>discharged (1)</b> 8:6	<b>door (1)</b> 13:18	<b>effective (2)</b> 91:10,24	<b>evenings (1)</b> 58:7
<b>describe (21)</b> 13:4,14 17:19 19:8 20:10,19 23:2 24:23 25:21 27:5 29:14,20 31:9 31:11 32:25 33:21 40:14 52:12 53:8,17 73:8	<b>disciplinary (...)</b> 16:16,17 27:8 38:19 67:9,14 69:17 70:2,8 76:4	<b>dorm-type (1)</b> 14:7	<b>eight (3)</b> 28:4,10 30:5	<b>everybody (1)</b> 57:23
<b>described (2)</b> 37:20 68:6	<b>discipline (1)</b> 64:10	<b>double (1)</b> 31:21	<b>either (6)</b> 5:25 6:5 56:22 66:3 77:20 85:19	<b>everyday (1)</b> 56:18
<b>description (3)</b> 64:13 78:18 80:22	<b>disciplined (1)</b> 12:5	<b>dressed (1)</b> 36:9	<b>electrical (3)</b> 74:4 78:22 81:13	<b>evidence (16)</b> 41:8,14 46:18 46:19,25 47:7 47:10 51:14 65:14 67:20 69:10 74:10 76:15 78:3,24 81:19
<b>designated (1)</b> 17:4	<b>discussion (4)</b> 41:12 52:2 59:17 70:21	<b>drive (1)</b> 44:11	<b>emotions (2)</b> 55:14,15	<b>EXAMINAT...</b> 4:12
<b>detection (1)</b> 57:15	<b>District (3)</b> 1:2,3 84:15	<b>drop (14)</b> 41:8,14 46:18 46:25 47:7,8 51:14 65:14 67:20 69:10 74:11 76:15 78:25 81:19	<b>employ (1)</b> 97:15	<b>examined (1)</b> 4:5
<b>detector (1)</b> 57:7	<b>document (32)</b> 48:11,20 49:2 49:5,20 50:6 53:24 54:16 55:23 59:9,13 59:23 60:5,12 63:4,17 65:15 66:15,19,25 67:23 68:19 68:22 71:12 72:14 74:15 75:15,19,22 76:6,13 83:6	<b>duly (2)</b> 4:3 97:6	<b>employed (1)</b> 8:11	<b>excuse (2)</b> 15:12 20:6
<b>devices (1)</b> 88:14	<b>documents (3)</b> 50:2,4 59:19	<b>dungeon (4)</b> 37:21,23 38:2 38:7	<b>employer (1)</b> 8:13	<b>exhibit (1)</b> 51:22
<b>difference (3)</b> 14:4 25:4 61:18	<b>dog-five (1)</b> 24:20	<b>duration (2)</b> 11:15 25:2	<b>encounter (1)</b> 76:8	<b>expedience (1)</b> 6:23
<b>differences (1)</b> 13:4	<b>doing (10)</b> 21:23 22:6 30:19 36:3 40:3 45:13 51:23 58:19 90:21,24	<b>duty (1)</b> 10:19	<b>ended (1)</b> 87:11	<b>experience (1)</b> 35:2
<b>different (9)</b> 11:10 15:10,14 16:13 19:15 19:16 41:20 77:13 92:25	<b>Donnesia (14)</b> 1:11 48:2,7,19 49:11 60:16 64:3 66:5,9	<b>E</b>	<b>endorsement...</b> 63:22	<b>experienced (...)</b> 30:20
<b>diploma (1)</b> 7:21		<b>E (9)</b> 2:2,2 4:2,2 17:6 20:21 21:11 97:2,2	<b>enter (2)</b> 44:15 57:15	<b>explain (5)</b> 15:17 31:5 32:5 89:6 96:5
<b>directive (4)</b> 51:15 65:14 74:11 81:20		<b>E-D-E-R-E-...</b> 72:23	<b>entering (3)</b> 57:19 58:14 74:14	<b>F</b>
<b>directly (1)</b>		<b>earlier (4)</b> 35:22 37:25 42:20 67:8	<b>entire (2)</b> 11:15 91:18	<b>F (1)</b> 97:2
		<b>eat (2)</b> 14:3 40:2	<b>entirely (1)</b> 72:19	<b>face (1)</b> 64:10
		<b>Ederer (4)</b> 72:22 73:4,8 83:17	<b>entry (1)</b> 47:19	<b>faced (1)</b> 76:3
		<b>Ederer's (1)</b> 72:24	<b>equipment (3)</b> 25:25 26:12 27:2	<b>facility (45)</b> 9:18 10:10,25 11:3,8 12:9
			<b>ESQ (2)</b> 2:5,11	
			<b>ESQS (1)</b>	

November 21, 2019

Page 103

12:17,22	<b>filing (1)</b>	<b>found (20)</b>	93:6,6,19	23:13,14,16
15:11,15 18:6	3:5	40:22 43:3,6	<b>frisked (3)</b>	23:17 24:11
20:15,17,22	<b>filled (1)</b>	43:15 45:3,7	34:6 49:18	24:14 26:18
20:24,25 21:2	79:17	45:10 46:3,13	54:11	26:22 29:23
24:6 28:25	<b>find (2)</b>	65:11 67:19	<b>frisking (4)</b>	33:7,10 35:24
29:8 37:14	40:14 93:25	68:11,16,20	31:10 73:19	36:3 39:4,8
39:11,17,21	<b>finding (1)</b>	89:10 90:7	81:4 90:24	40:2 56:6
43:14 44:3,5	68:10	93:21 94:3,7	<b>frisks (2)</b>	57:12 58:23
44:10,13,16	<b>finds (1)</b>	94:9	30:16 42:22	78:7 85:6
44:19,21	63:10	<b>four (6)</b>	<b>front (1)</b>	89:22 90:8,21
45:11 46:4,5	<b>fingerprint (1)</b>	9:14 53:13	31:17	93:8
46:15 49:3,6	59:6	64:13 87:4	<b>full (2)</b>	<b>goes (3)</b>
64:10 70:10	<b>finishes (2)</b>	94:25 96:5	5:6 19:22	4:22 6:8 24:12
71:19 76:4	16:23 35:10	<b>Fourth (1)</b>	<b>further (4)</b>	<b>going (14)</b>
78:9 79:24	<b>fired (1)</b>	53:14	3:8,12 5:19	4:17 6:3,14
91:9	91:4	<b>freedom (1)</b>	33:11	17:14 20:18
<b>fact (1)</b>	<b>firewood (1)</b>	13:11	<b>G</b>	21:6 23:12
92:19	8:23	<b>freely (1)</b>	<b>gang (3)</b>	39:10,13
<b>fair (7)</b>	<b>firm (1)</b>	39:18	43:22 70:25	48:10 57:8
30:19 37:13	4:16	<b>frisk (82)</b>	92:6	74:16 87:9
66:2,7,9,11	<b>first (10)</b>	30:13,24 31:12	<b>gangs (2)</b>	90:22
87:18	4:3 9:15 17:20	31:14,18,20	44:2,5	<b>good (2)</b>
<b>far (2)</b>	18:8 35:22	31:22,23 32:3	<b>General (3)</b>	4:14 96:8
37:4 52:23	36:3 52:17	32:6,10,11,11	1:21 2:9 49:6	<b>Graham (3)</b>
<b>fashioned (4)</b>	72:24 86:25	32:13,14,17	<b>generally (2)</b>	29:9 91:8,10
51:9 62:11	87:3	32:20,22 33:9	29:20 35:17	<b>ground (3)</b>
65:7 77:4	<b>Fishkill (7)</b>	33:10,12,13	<b>getting (2)</b>	4:21 8:23
<b>fashioned-ty...</b>	9:17,17 10:4,8	33:16,19,22	23:19 92:3	46:14
68:4	12:16,24 14:5	34:5,15 40:13	<b>give (6)</b>	<b>guards (1)</b>
<b>February (3)</b>	<b>five (4)</b>	50:9,10,23,25	13:16 34:4	58:8
71:23 91:7,14	16:15 17:3	51:2,5,7 53:3	49:22 86:14	<b>guess (7)</b>
<b>feel (3)</b>	53:13 58:16	54:2,7,10,20	87:5,9	29:17 39:16
31:18 33:5	<b>Five-eleven (1)</b>	55:3,7,13	<b>given (5)</b>	40:10 66:6
51:22	73:12	57:12,18,18	5:14 35:5,15	88:16 89:4
<b>feet (3)</b>	<b>fixed (1)</b>	57:20,21,22	86:6 87:11	90:13
21:21,21 53:23	24:22	58:10,18,24	<b>giving (3)</b>	<b>guidance (1)</b>
<b>felt (6)</b>	<b>fluid (1)</b>	60:4,13,23	24:8 70:8	34:23
33:3,14 51:3	39:10	61:7,11,14,20	87:11	<b>guidebook (1)</b>
54:8 61:10	<b>follows (1)</b>	61:25 64:21	<b>gloves (3)</b>	35:6
64:25	4:5	64:24,24 65:3	58:20,22 59:2	<b>guy (3)</b>
<b>female (2)</b>	<b>force (5)</b>	65:5,12,20,21	<b>go (34)</b>	27:22 34:10
74:25 75:6	3:15 30:8	65:25 72:11	4:20 5:18	37:6
<b>fight (2)</b>	62:14,19 83:2	73:22,23	13:24 14:2	<b>guy's (1)</b>
55:2 92:6	<b>form (5)</b>	74:12 75:13	19:21,24	34:10
<b>figured (1)</b>	3:9 47:11 60:4	75:20 81:7,8	21:10,11,15	<b>guys (4)</b>
90:22	61:6 66:3	83:16 84:16		16:24 41:22



November 21, 2019

Page 104

58:10,11	<b>He'll (1)</b>	<b>human (1)</b>	77:11 80:3	75:23 76:3,7
<b>gym (2)</b>	33:6	61:22	82:3,7,15	77:8 78:13
39:22,23	<b>heard (1)</b>		<b>indirectly (1)</b>	79:16 80:3,19
	69:25	<b>I</b>	97:14	81:17 82:8
<b>H</b>	<b>hearing (15)</b>	<b>ice (3)</b>	<b>individual (6)</b>	83:10,13,16
<b>H (1)</b>	27:8 69:17	51:8 62:10	48:14,15,18	83:20 84:6,9
4:2	70:2,2,3,15	65:6	49:10 72:2	84:13,20,23
<b>hair (4)</b>	70:17 83:22	<b>ideally (1)</b>	93:7	85:2,11 88:22
25:15 52:14	84:2,5,9	34:12	<b>Individually ...</b>	89:16 92:5
73:11,13	85:14 86:10	<b>identification...</b>	1:9,16	93:20 94:3,13
<b>hairecuts (1)</b>	86:15 88:2	50:11 61:3	<b>individuals (5)</b>	<b>inmate's (3)</b>
24:8	<b>height (1)</b>	78:14 80:6	92:9,17 93:4,9	38:19 60:15
<b>half (6)</b>	7:10	<b>image (1)</b>	93:17	71:15
53:22 74:6,9	<b>held (7)</b>	47:6	<b>inform (1)</b>	<b>inmates (58)</b>
78:20 81:16	1:20 37:7	<b>immediately ...</b>	32:18	10:6,21 12:14
81:21	41:12 52:2	91:10	<b>information (...)</b>	13:12,18
<b>half-inch (2)</b>	59:17 70:21	<b>inch (4)</b>	62:6 63:16	14:22,25
51:11 62:12	97:4	65:9 73:11	64:12 79:19	15:14 16:2
<b>hand (3)</b>	<b>hereunto (1)</b>	74:7 81:16	<b>informer (1)</b>	17:8 18:20,24
31:13 74:5	97:17	<b>inches (6)</b>	65:23	19:3,5,21,23
97:18	<b>hey (1)</b>	51:10 62:12	<b>infraction (1)</b>	20:2,7,9 21:4
<b>handbook (1)</b>	33:5	65:8 74:6	70:9	21:8,15,22
35:6	<b>high (1)</b>	78:20 81:16	<b>infracts (1)</b>	22:5,9,10,12
<b>handle (6)</b>	7:21	<b>incident (11)</b>	63:11	22:16,23,24
51:12 62:13	<b>highest (2)</b>	64:14 66:20,23	<b>inmate (86)</b>	23:9,15,24
65:10 74:4	7:19 53:13	68:17 78:11	13:15 14:10	24:3,7,8,12
78:22 81:14	<b>hip (1)</b>	80:9,12,23	19:9,10 30:24	28:11 30:10
<b>handwriting ...</b>	26:16	82:8,12,16	31:10,12 32:7	30:13 37:12
50:15 72:19	<b>history (1)</b>	<b>include (1)</b>	33:15,16,24	38:21 39:17
78:4,5 79:21	38:19	28:21	34:3,5,11	43:16 45:20
<b>happen (3)</b>	<b>hold (1)</b>	<b>including (3)</b>	40:6,13 43:3	45:21 56:11
22:8 24:2	56:13	28:5,7,9	47:25 48:2,25	58:3,5,9
39:19	<b>holding (1)</b>	<b>increase (1)</b>	49:14 50:11	66:16 73:19
<b>happened (1)</b>	49:6	96:6	53:3,5 54:2,7	75:25 81:5
42:9	<b>honorably (1)</b>	<b>increased (1)</b>	54:11 55:2,8	82:4 85:20
<b>happens (1)</b>	8:6	96:4	55:11 57:5	89:10 90:7
20:5	<b>hood (1)</b>	<b>indicate (2)</b>	58:3,14 63:7	<b>inputted (3)</b>
<b>happy (1)</b>	31:16	62:14 75:19	63:9,11,13	63:16,17 64:12
5:11	<b>hoodie (1)</b>	<b>indicated (5)</b>	64:9 66:4,9	<b>inside (10)</b>
<b>harassment (1)</b>	31:16	62:17 64:6	66:13 67:19	14:6 15:20
30:7	<b>housed (2)</b>	80:10,15,18	68:10,20,24	33:7,11,23,25
<b>hard (5)</b>	12:16,18	<b>indicates (13)</b>	69:7,17,19	39:17,21,22
17:25 20:19,20	<b>housing (6)</b>	48:18 49:5	70:7,8,24	41:7
31:4 32:5	16:21 28:22	52:4 53:15	71:4,13 74:7	<b>instance (2)</b>
<b>Harold (2)</b>	67:2,9 80:7	60:15,22	74:13,21	18:7 24:5
29:9 91:8	82:17	66:16 71:15	75:13,16,16	<b>institutional ...</b>

November 21, 2019

Page 105

63:12 78:12	18:15	<b>know (79)</b>	<b>Latin (1)</b>	48:17 49:19
<b>instruction (3)</b>	<b>job (26)</b>	4:23 5:10	44:7	51:18,21 52:3
34:17,21,25	10:7,19 11:24	12:12 19:18	<b>law (1)</b>	56:2,10 59:9
<b>instructions (...)</b>	14:23 15:25	20:15 22:20	4:16	59:15,18
5:16	18:8 19:9,10	24:15,21	<b>lawsuits (1)</b>	62:22 67:17
<b>instruments (...)</b>	21:23 22:6	34:18 37:24	6:13	70:19,22 71:9
45:18,23	24:20,22,22	41:21 42:14	<b>laymen's (1)</b>	72:5,23 76:17
<b>intelligence (1)</b>	25:4,5,6	42:17,25	27:7	77:18 79:10
43:23	30:12,17,20	43:19,20	<b>layout (2)</b>	86:7 88:5,8
<b>intend (1)</b>	35:24 40:3	45:22,25 46:3	20:15,16	88:12 96:9
45:13	41:24 42:21	46:5 47:7	<b>leaner (2)</b>	<b>Liberty (1)</b>
<b>inter (1)</b>	70:13 89:19	52:23 53:2	73:10,13	1:22
23:8	93:11	54:5,22,25	<b>learn (2)</b>	<b>lieutenant (6)</b>
<b>interaction (1)</b>	<b>jobs (1)</b>	55:6 57:2	30:17 42:21	28:23,24 42:13
66:8	18:6	58:7 60:3	<b>Learning (1)</b>	42:15,18 83:7
<b>interactions (...)</b>	<b>John (1)</b>	61:21 63:4	19:11	<b>light (1)</b>
66:12	73:2	66:14 67:21	<b>leave (3)</b>	21:24
<b>interchangea...</b>	<b>judge (2)</b>	68:2 69:3,19	14:2,10 96:9	<b>lights (3)</b>
22:22	6:11 7:2	69:22,23 70:3	<b>leaving (4)</b>	22:2 39:3 40:8
<b>interested (1)</b>	<b>K</b>	70:12 71:4,25	10:7,23 46:20	<b>line (1)</b>
97:13	<b>K.W (1)</b>	72:24 73:6,7	47:3	7:2
<b>investigation...</b>	77:16	74:20,23 75:3	<b>left (2)</b>	<b>lineup (2)</b>
69:24,25	<b>keep (1)</b>	76:2,10 77:15	18:22 52:20	38:5,9
<b>involved (2)</b>	64:15	77:16 83:12	<b>leg (4)</b>	<b>Listen (2)</b>
66:17 82:5	<b>keeps (2)</b>	83:15,21,25	31:23,24,25	86:21 93:8
<b>item (16)</b>	43:18,19	84:4,8,13,17	32:3	<b>little (6)</b>
46:17,24 48:5	<b>kept (2)</b>	84:18,22 85:9	<b>Lennox (3)</b>	17:12,18 29:17
64:8 67:18	43:13,20	88:20 89:5	8:14,16,17	39:3 64:17
68:6,10,20,24	<b>key (9)</b>	90:11,16,18	<b>let's (5)</b>	73:13
69:4,9 77:7	13:18 26:5,14	91:3,24,25	12:8 24:5 33:7	<b>lived (1)</b>
79:3 80:21	27:6,7 37:4,5	93:9 94:16,22	56:6 88:8	13:19
83:10,13	37:14,15	95:4,13,14,25	<b>letter (4)</b>	<b>located (6)</b>
<b>items (3)</b>	<b>keys (7)</b>	<b>known (5)</b>	17:4 91:6,17	12:10 35:20
45:14 47:20	26:4,15,16,17	16:17 37:23	91:19	41:15,18
88:25	26:19,20 27:3	55:4 57:4	<b>level (4)</b>	44:17 53:9
<b>J</b>	<b>kind (6)</b>	74:24	7:19 12:21,24	<b>location (4)</b>
<b>jail (1)</b>	18:3 20:14,19	<b>L</b>	13:2	60:22 78:18
27:24	25:8 29:19	<b>L (3)</b>	<b>levels (1)</b>	80:7,9
<b>January (10)</b>	89:5	3:2 4:2,2	53:11	<b>locked (6)</b>
25:12 26:25	<b>kinds (1)</b>	<b>L-E-N-N-N-...</b>	<b>Levy (42)</b>	13:24 14:4,6
42:17 49:9,13	44:8	8:18	2:5 4:13,15	37:11 39:7,14
52:6 56:25	<b>Kings (1)</b>	<b>landing (2)</b>	5:18 6:19,23	<b>locker (21)</b>
60:19 64:3	44:7	21:4,5	7:5,6 26:10	35:15 36:4,12
65:16	<b>knew (1)</b>	<b>Lange (1)</b>	31:8 32:12	36:14,17,20
<b>Jeffrey (1)</b>	37:24	77:16	41:10,13 42:6	36:23 37:2,4
			42:8 48:4,8	37:7,14,15,17



November 21, 2019

Page 106

38:3,8,12	5:1 6:1 7:1	<b>MAD/ATB (1)</b>	<b>maximum (2)</b>	<b>microphone (...)</b>
41:8 89:2,5	8:1 9:1 10:1	1:13	12:23 22:11	42:5
89:10,13	11:1 12:1	<b>main (17)</b>	<b>mean (9)</b>	<b>middle (2)</b>
<b>lockers (2)</b>	13:1 14:1	15:3 20:25	22:15 31:6	53:19 63:19
35:20 37:20	15:1 16:1	22:17,21 23:7	34:18,20	<b>military (1)</b>
<b>logged (2)</b>	17:1 18:1	23:11,17,23	47:14,15	7:24
47:10,12	19:1 20:1	23:24 24:11	57:22 92:13	<b>mind (1)</b>
<b>long (17)</b>	21:1 22:1	24:22,24 25:5	93:23	64:15
8:25 9:19	23:1 24:1	27:15,19	<b>meaning (4)</b>	<b>Mine (1)</b>
10:14 19:25	25:1 26:1	73:20 81:5	14:21 29:5	18:7
21:18,20 30:3	27:1 28:1	<b>Maintain (1)</b>	57:24 82:9	<b>mingling (1)</b>
37:18 47:17	29:1 30:1	10:5	<b>means (5)</b>	23:8
51:10 62:12	31:1 32:1	<b>maintained (1)</b>	13:15 15:6,18	<b>minute (1)</b>
65:8 69:15	33:1 34:1	11:14	23:12 39:6	56:5
74:6 78:20	35:1 36:1	<b>maintaining ...</b>	<b>meant (9)</b>	<b>mirror (1)</b>
81:16 90:15	37:1 38:1	10:20 14:24	14:19,20 15:4	47:6
<b>longer (2)</b>	39:1 40:1	15:2	19:8 24:23	<b>misbehavior ...</b>
11:3 73:11	41:1 42:1	<b>mainyard (6)</b>	27:5 37:8,11	47:5,6 63:7,9
<b>look (20)</b>	43:1 44:1	14:18 18:8,9	65:19	63:13 68:7
33:7,22 34:24	45:1 46:1	18:11 19:23	<b>measured (2)</b>	79:16,23
38:18 48:11	47:1 48:1	19:24	74:5 81:15	87:16 93:21
52:13 59:24	49:1 50:1	<b>makeshift (2)</b>	<b>measuring (4)</b>	94:4,10,14,16
59:25 61:21	51:1 52:1	45:8 77:4	51:10 62:11	94:19,22 95:4
62:25 68:5	53:1 54:1	<b>Making (5)</b>	65:8 78:19	95:14,18 96:3
73:9 76:18	55:1 56:1	21:24,25 22:2	<b>medium (5)</b>	<b>miscellaneous...</b>
77:22,23 79:5	57:1 58:1	22:3,9	12:25 13:3,5,5	24:19
87:13,20,24	59:1 60:1	<b>male (2)</b>	13:17	<b>mix (1)</b>
87:25	61:1 62:1	52:15 73:10	<b>memo (4)</b>	22:25
<b>looked (3)</b>	63:1 64:1	<b>man (4)</b>	46:19 47:2,5	<b>mixed (1)</b>
59:20 87:2,19	65:1 66:1	49:18 66:14	55:21	23:5
<b>looking (9)</b>	67:1 68:1	68:12 74:23	<b>memorandu...</b>	<b>moment (1)</b>
48:21 56:2	69:1 70:1	<b>manner (1)</b>	50:7,8,14 68:7	86:22
67:23,25 68:3	71:1 72:1	29:20	72:21 73:17	<b>months (2)</b>
68:5,9 76:22	73:1 74:1	<b>mark (2)</b>	77:7	9:14,20
91:6	75:1 76:1	51:16,21	<b>memos (1)</b>	<b>morning (6)</b>
<b>looks (4)</b>	77:1 78:1,18	<b>marriage (1)</b>	87:17	4:14,18 13:21
48:21 54:8	78:24 79:1	97:12	<b>mentioned (2)</b>	39:5 40:2,11
68:13,15	80:1 81:1	<b>material (1)</b>	67:18 75:11	<b>move (2)</b>
<b>lot (6)</b>	82:1 83:1	34:22	<b>mentors (2)</b>	39:18 83:5
29:18 39:10	84:1 85:1	<b>materials (1)</b>	30:17 42:21	<b>moved (5)</b>
44:17,19	86:1 87:1	35:6	<b>mentorship (1)</b>	67:2,4,6 82:16
68:11 75:25	88:1 89:1	<b>matter (1)</b>	42:24	82:19
<b>M</b>	90:1 91:1	97:15	<b>metal (1)</b>	<b>multiple (3)</b>
<b>M (99)</b>	92:1 93:1	<b>Matthew (5)</b>	57:7	48:13 53:11
2:1 3:1 4:1,2	94:1 95:1	1:9,16,19 4:8	<b>methods (3)</b>	92:8
	96:1 97:1	96:15	30:9,15,23	<b>myriad (1)</b>

November 21, 2019

Page 107

65:24	<b>nine (1)</b>	<b>oath (1)</b>	50:24 52:5	1:20 14:10
<b>N</b>	95:11	3:14	59:19 62:22	31:12 32:22
<b>N (3)</b>	<b>Nope (1)</b>	<b>object (6)</b>	63:10 66:4	34:4 57:15
2:2 3:2 4:2	89:11	51:3 54:8	67:12 69:3	<b>ordered (9)</b>
<b>naked (1)</b>	<b>norm (1)</b>	61:10 64:25	70:15 83:9	50:22,24 53:2
61:21	65:22	92:14,21	85:10 90:19	64:20,22
<b>name (12)</b>	<b>north (10)</b>	<b>objected (2)</b>	95:11,22	73:20,24 81:5
4:7,15 15:7	20:23,25 21:6	55:11,18	<b>officers (17)</b>	81:10
16:18 18:16	21:9,10,12	<b>Objection (14)</b>	11:11 21:3	<b>outcome (1)</b>
42:23 48:18	22:13 23:13	13:6 17:22	27:11,17,23	97:14
52:18 60:15	27:24 58:6	29:16 30:25	28:2,10,14,19	<b>outside (2)</b>
62:3 71:16	<b>NORTHER...</b>	38:23 45:5	30:20 34:7,13	69:20 84:14
72:25	1:3	46:10 55:12	41:21 54:22	<b>overturned (5)</b>
<b>Name/rank (1)</b>	<b>Notary (3)</b>	76:9 89:22	75:2,6 83:13	92:10,19 93:5
61:24	1:23 4:3 96:21	90:8 92:12	<b>offices (1)</b>	93:15,17
<b>named (4)</b>	<b>noted (1)</b>	95:24 96:7	1:21	<b>overwhelme...</b>
48:2 49:10	96:13	<b>objections (1)</b>	<b>Official (2)</b>	43:8
71:5,7	<b>notified (2)</b>	3:9	1:9,16	<b>owned (1)</b>
<b>nature (3)</b>	51:4 65:2	<b>obviously (2)</b>	<b>offshoots (1)</b>	89:5
8:19 10:3 22:9	<b>notifies (1)</b>	29:2 78:15	44:8	<b>owning (2)</b>
<b>near (1)</b>	40:20	<b>occasionally ...</b>	<b>Oh (1)</b>	49:3 71:19
38:8	<b>notify (2)</b>	30:13	30:14	<b>Ozzborn (35)</b>
<b>nearby (1)</b>	40:17,19	<b>occasions (1)</b>	<b>okay (9)</b>	1:5 6:7,15,22
34:19	<b>November (3)</b>	38:17	33:7 42:10	71:5,7,10,16
<b>necessarily (4)</b>	1:22 97:5,18	<b>occupation (1)</b>	48:9 49:23	73:20,23,25
6:4,8 43:7	<b>number (27)</b>	19:10	51:20 59:25	74:7,13,21
70:13	22:12 36:12,14	<b>occupied (4)</b>	68:18 72:7	75:16,23 76:7
<b>never (15)</b>	36:17,20,23	50:23 64:22	79:12	77:9 78:13
35:8,8 39:19	48:12 49:20	73:21 81:6	<b>old (2)</b>	80:4 81:6,8
45:21 47:24	50:12 51:19	<b>offense (2)</b>	7:7,9	81:10,17 83:5
58:21,25	59:13 61:3	39:2 78:11	<b>on-the-job (1)</b>	83:10,14,17
67:13 69:25	64:13 66:16	<b>office (5)</b>	12:6	83:21 84:13
84:7,11 85:16	67:24 71:11	41:16 43:11	<b>once (6)</b>	84:20 85:2,15
89:17 92:7	72:6 76:22	69:21 84:15	19:22 23:9	85:20 86:18
93:8	77:19 78:10	93:12	31:22 40:19	
<b>New (26)</b>	78:11,14	<b>officer (40)</b>	69:9 86:21	<b>P</b>
1:3,8,8,8,15,15	79:11 80:6	1:9,16,19 3:14	<b>ones (1)</b>	<b>P (3)</b>
1:15,19,21,22	82:21,24 96:3	4:14 5:20 7:7	57:25	2:2,2 3:2
1:22,24 2:4,9	<b>nuts (1)</b>	9:25 10:4,11	<b>open (5)</b>	<b>P-O-R-T-E-...</b>
2:10 4:4,10	89:7	11:7,15,18,25	19:3,4,20,23	18:17
9:8,11,17	<b>O</b>	14:11 18:14	20:6	<b>p.m (12)</b>
11:4,17,24	<b>O (2)</b>	20:8 24:9	<b>opportunity ...</b>	16:9,9 39:9,9
12:4,11,13	3:2 4:2	25:22 26:23	49:23 62:25	40:8 52:8
<b>night (1)</b>	<b>o'clock (1)</b>	29:15 30:13	<b>opposed (1)</b>	56:13 60:21
13:25	39:4	35:14 43:10	61:16	64:4 78:17
		48:10 49:22	<b>order (6)</b>	80:16 96:13



November 21, 2019

Page 108

<b>pa (1)</b> 34:4	<b>pats (1)</b> 58:4	<b>photographe...</b> 43:3 51:13	<b>Plus (1)</b> 16:15	96:5
<b>page (4)</b> 63:20 79:5,20 82:4	<b>pen (2)</b> 47:15,17	65:13 67:20 69:10 74:10	<b>point (15)</b> 32:13 41:11	<b>prison (8)</b> 45:10 63:12 68:4 70:7 77:4 92:10,18 93:5
<b>paid (2)</b> 84:7,11	<b>penalty (1)</b> 18:25	<b>photographe...</b> 77:12	51:12,25 56:8 59:16,20	<b>private (2)</b> 31:24 33:15
<b>pair (2)</b> 74:9 81:21	<b>pending (1)</b> 27:8	<b>photographi...</b> 43:15	65:10 66:2 70:20 74:3	<b>probably (4)</b> 25:14 29:18 73:12 83:19
<b>pants (2)</b> 25:24 33:6	<b>people (4)</b> 5:8 38:18 42:23 70:14	<b>photographs ...</b> 48:13	78:21 81:13 85:17 88:10	<b>procedure (8)</b> 31:7,9 32:25 34:2 40:15 41:2 59:3,4
<b>paper (1)</b> 42:5	<b>perceive (1)</b> 40:25	<b>phrase (1)</b> 27:6	<b>policy (2)</b> 34:9 47:9	<b>proceeding (4)</b> 4:18 84:19,23 86:2
<b>paperwork (2)</b> 69:11 70:23	<b>performed (2)</b> 50:10 74:13	<b>physical (1)</b> 83:2	<b>Porten (1)</b> 18:15	<b>process (1)</b> 34:8
<b>parallel (1)</b> 20:24	<b>performing (1)</b> 93:10	<b>physically (1)</b> 73:9	<b>portion (1)</b> 78:24	<b>Professional ...</b> 8:14,16
<b>parking (3)</b> 44:12,17,19	<b>performs (1)</b> 20:8	<b>pick (3)</b> 51:8 58:3 65:6	<b>posed (1)</b> 92:15	<b>program (11)</b> 13:20,24 14:3 19:2,4,7,9 23:16 39:8,13 40:3
<b>part (4)</b> 30:12 31:20,22 47:8	<b>period (5)</b> 9:21 12:3 19:25 25:3 30:3	<b>picked (1)</b> 93:12	<b>position (2)</b> 24:22 42:2	<b>programs (1)</b> 19:5
<b>particular (6)</b> 16:5 18:13 38:12 41:2 56:25 72:11	<b>periods (2)</b> 19:12,17	<b>picture (1)</b> 79:7	<b>possession (1)</b> 92:10	<b>promoting (2)</b> 92:17 93:4
<b>parties (2)</b> 3:4 97:13	<b>permanent (1)</b> 41:25	<b>piece (1)</b> 37:9	<b>post (6)</b> 18:9,11,12,18 24:24 35:24	<b>property (1)</b> 90:14
<b>party (1)</b> 97:9	<b>permitted (2)</b> 20:2 39:18	<b>pike (1)</b> 62:10	<b>pounds (3)</b> 7:11,14 73:12	<b>protocol (2)</b> 59:3,4
<b>pass (2)</b> 57:6,14	<b>person (2)</b> 70:13 77:8	<b>place (3)</b> 22:10 46:17 89:9	<b>practical (2)</b> 29:22 30:11	<b>provide (1)</b> 34:22
<b>pat (28)</b> 30:13,16,24 31:9,12 32:10 32:11,13,14 32:17 33:10 33:13 50:25 51:2 57:20,21 57:22 61:11 64:23,24 73:22,23 74:12 75:12 81:4,7,8 93:6	<b>person(s) (1)</b> 61:24	<b>places (1)</b> 31:13	<b>practice (2)</b> 46:7,12	<b>provided (2)</b> 34:16 42:24
	<b>personal (3)</b> 44:21 46:9 91:11	<b>Plaintiff (4)</b> 1:6,12,20 2:3	<b>prepare (1)</b> 8:23	<b>provides (2)</b> 49:2 61:6
	<b>personally (1)</b> 45:19	<b>plant (3)</b> 68:24 83:9 89:15	<b>prepared (1)</b> 60:5	<b>providing (1)</b> 5:6
	<b>pertain (1)</b> 89:7	<b>planted (2)</b> 69:4 83:13	<b>present (1)</b> 83:17	<b>Public (3)</b> 1:23 4:4 96:21
	<b>phonetic (1)</b> 86:16	<b>planting (1)</b> 92:4	<b>presently (1)</b> 7:8	<b>purpose (1)</b>
	<b>photograph (7)</b> 43:5 48:7,13 48:25 71:13 71:16 72:3	<b>please (8)</b> 4:23 5:5,10 27:13 64:14 73:16 80:25 86:13	<b>pretty (1)</b> 87:14	
<b>path (3)</b> 20:10,12 21:5			<b>previously (1)</b> 75:12	
			<b>prior (5)</b> 74:21 76:2 85:18 86:20	

November 21, 2019

Page 109

18:10	<b>ran (1)</b>	49:13 52:17	51:18	<b>reporting (1)</b>
<b>purposes (3)</b>	18:12	66:8,12 68:9	<b>refresh (2)</b>	18:10
6:12 43:14	<b>random (3)</b>	69:16 75:5,9	53:25 72:10	<b>reports (8)</b>
92:5	57:21,22 58:13	84:3,21,25	<b>regard (2)</b>	94:17,23,25
<b>pursuant (1)</b>	<b>randomly (5)</b>	89:14	40:22 64:2	95:5,7,15,18
1:20	58:4,10 73:19	<b>receive (1)</b>	<b>regarding (5)</b>	96:3
<b>put (9)</b>	74:13 81:4	30:15	46:19 47:20	<b>represented (...)</b>
5:19 41:7	<b>rank (3)</b>	<b>received (4)</b>	50:8 69:13	97:9
45:24,25 46:8	8:8 11:13	29:15,18 69:20	85:19	<b>required (2)</b>
57:11 67:15	42:11	84:14	<b>related (1)</b>	60:12 63:8
80:20 91:3	<b>ranks (1)</b>	<b>recess (2)</b>	69:11	<b>reserved (1)</b>
<b>puts (1)</b>	11:10	56:9 88:11	<b>relation (1)</b>	3:10
8:22	<b>read (11)</b>	<b>recognize (7)</b>	53:18	<b>resided (1)</b>
<b>Pyke (14)</b>	49:23 50:19	48:14 67:24	<b>relative (4)</b>	13:19
50:23 51:4	55:17 64:14	71:12 72:2	5:24 44:15	<b>resign (1)</b>
52:10,12,21	64:17 72:8	76:24 77:23	70:24 85:14	91:10
52:23 53:2	73:16 77:7	79:13	<b>release (2)</b>	<b>resignation (1)</b>
54:6,9,19	80:25 86:21	<b>recollection (2)</b>	13:23 19:23	91:21
60:9 64:21	86:22	53:25 72:11	<b>relief (1)</b>	<b>resigned (3)</b>
65:2 66:4	<b>reading (7)</b>	<b>record (18)</b>	41:21	90:16,17,19
<b>Pyke's (1)</b>	50:21 53:24	4:7 5:20 41:10	<b>remember (15)</b>	<b>respective (1)</b>
52:17	54:5 62:10	41:12 48:17	41:6,9 43:9	3:4
<b>Q</b>	64:19 72:10	50:19 51:24	45:9 47:4,8	<b>respectively (...)</b>
<b>quarter (2)</b>	81:3	52:2 56:7	47:18 55:13	96:4
74:6 81:16	<b>ready (1)</b>	59:15,17,18	55:14,15	<b>responsibilit...</b>
<b>quarter-inch ...</b>	43:11	64:15 70:19	68:16 69:14	40:21 69:13
78:20	<b>real (1)</b>	70:21 73:16	69:18 75:3	<b>rest (1)</b>
<b>question (16)</b>	17:24	80:25 97:10	88:17	17:11
3:9 4:24 5:2,4	<b>realize (1)</b>	<b>recording (1)</b>	<b>remove (1)</b>	<b>result (7)</b>
5:6,13 16:23	42:8	88:14	46:7	62:5 82:12,15
18:4 20:14	<b>really (3)</b>	<b>recovered (7)</b>	<b>removed (1)</b>	84:4,8,16
27:22 35:10	38:4 90:18	45:19 74:2	44:20	92:11
46:22 49:17	91:25	77:8 78:17	<b>rephrase (5)</b>	<b>resulted (1)</b>
66:10 92:15	<b>reason (4)</b>	79:3,8 81:11	4:25 27:13	83:21
94:2	5:10 69:6	<b>recovery (1)</b>	46:21,22 86:3	<b>return (3)</b>
<b>questions (1)</b>	74:17 85:9	78:15	<b>report (17)</b>	18:21 19:3
4:18	<b>reasons (1)</b>	<b>recreation (1)</b>	18:9 24:13	20:7
<b>Quinteros (1)</b>	91:11	14:18	47:5,6 63:7,9	<b>returns (1)</b>
44:7	<b>rec (2)</b>	<b>rectangular (1)</b>	63:14 65:16	57:5
<b>R</b>	39:20 56:18	21:20	68:7 79:16,23	<b>reverse (1)</b>
<b>R (3)</b>	<b>recall (26)</b>	<b>redacted (4)</b>	81:22 93:21	79:6
2:2 4:2 97:2	12:17,18 17:14	86:4,5,15	94:5,10,14,20	<b>review (5)</b>
<b>rack (1)</b>	26:7 36:15,16	87:10	<b>reported (1)</b>	50:2,4 85:13
58:8	36:19,22 37:3	<b>referred (2)</b>	35:23	85:18 86:9
	37:17 38:4	37:21,22	<b>reporter (3)</b>	<b>reviewed (3)</b>
	47:4,25 49:9	<b>referring (1)</b>	4:6 5:7 64:15	70:24 86:23



November 21, 2019

Page 110

87:14	26:24	61:23	18:9,11,12,18	<b>shown (5)</b>
<b>ribcage (1)</b>	<b>Rynecki (2)</b>	<b>secured (7)</b>	33:16 35:24	62:23 67:17
31:18	2:3 4:16	51:14 65:13	63:23	71:9 72:5
<b>Richard (2)</b>	S	67:20 69:10	<b>series (1)</b>	79:10
2:5 4:15	S (3)	74:10 76:14	4:17	<b>shows (2)</b>
<b>rifle (11)</b>	2:2 3:2,2	81:19	<b>served (1)</b>	58:3 76:25
45:7,16 89:24	<b>Sarge (1)</b>	<b>security (5)</b>	7:24	<b>SHU (2)</b>
89:25,25 90:2	33:5	12:21,24 13:2	<b>set (6)</b>	82:22 83:5
90:3,4,11	<b>saying (4)</b>	13:5 15:2	13:20 26:4	<b>SHU-D (3)</b>
92:2,3	35:12,12 64:16	<b>see (4)</b>	58:2 85:2,10	16:19 67:7
<b>right (34)</b>	86:19	23:19 25:8	97:17	82:20
14:9 24:6	<b>says (9)</b>	68:12 75:21	<b>sets (2)</b>	<b>side (13)</b>
26:14 28:19	53:7 56:3	<b>seen (4)</b>	26:4 27:3	20:22,23,25
32:10 33:4	61:13 62:18	48:20 50:5	<b>setting (3)</b>	21:2 22:13
35:4 41:9	77:14 82:12	87:2,4	14:7 29:22,22	23:13,14 25:2
43:9 44:18	83:2 91:9	<b>selected (2)</b>	<b>setup (1)</b>	27:24 31:23
53:6 61:14,25	95:3	58:15 74:18	69:6	32:2 58:6
62:3,15 65:17	<b>scheduled (1)</b>	<b>send (1)</b>	<b>seven (1)</b>	79:6
73:24,25	56:4	57:25	95:22	<b>sides (1)</b>
75:17 76:15	<b>school (1)</b>	<b>sense (6)</b>	<b>sexual (1)</b>	31:18
77:12 80:7,23	7:21	6:18 13:13	30:7	<b>signature (3)</b>
81:10,11,25	<b>screen (1)</b>	21:7 23:25	<b>sharing (1)</b>	60:7,10 63:24
82:5 88:6	56:3	30:11 87:19	37:17	<b>signed (7)</b>
91:15 94:20	<b>screws (1)</b>	<b>sentence (1)</b>	<b>sharpened (5)</b>	3:13,15 50:17
95:2,8,12,23	89:6	55:8	51:11 65:9	63:19 72:17
<b>Road (1)</b>	<b>sealing (1)</b>	<b>separate (4)</b>	74:3 78:21	81:25 91:7
4:10	3:5	5:22,24 6:16	81:12	<b>similar (1)</b>
<b>room (11)</b>	<b>search (19)</b>	45:17	<b>shaven (2)</b>	25:17
38:6,9 39:20	49:10,14 55:18	<b>September (1)</b>	25:10,13	<b>simple (1)</b>
51:6 53:16,21	61:7,16,19	9:23	<b>Sherwood (1)</b>	23:24
54:17,18 61:2	62:5,15,20	<b>sergeant (35)</b>	4:10	<b>simplest (1)</b>
65:4 88:21	64:2 68:21	8:10 18:13	<b>shift (10)</b>	23:21
<b>roughiy (1)</b>	69:12 80:19	28:7,9,15,21	16:6 18:22,23	<b>six (2)</b>
9:24	83:3 88:22	28:22 32:15	27:9 28:24,25	53:22 66:16
<b>RPR (1)</b>	93:20,24,24	32:18 33:4	41:25 42:3	<b>sleeves (1)</b>
97:23	94:3	34:19 40:17	75:2,7	31:17
<b>Rubenstein (1)</b>	<b>searched (2)</b>	40:18,19,20	<b>shirt (2)</b>	<b>slower (1)</b>
4:16	45:3 55:11	50:22 51:4	25:24 31:17	64:17
<b>RUBINSTEI...</b>	<b>searching (1)</b>	52:9,12,17,20	<b>shoe (8)</b>	<b>smaller (1)</b>
2:3	30:10	52:23 53:2	32:2,4 73:24	17:12
<b>rule (3)</b>	<b>sec (1)</b>	54:6,9,19	73:25 74:2	<b>smoothly (1)</b>
64:6 80:18	56:14	60:9 64:20	81:10,11,11	4:22
83:20	<b>second (2)</b>	65:2 66:3	<b>shop (2)</b>	<b>sole (1)</b>
<b>rules (3)</b>	95:10,21	72:22,24 73:4	24:6,9	92:20
4:21 63:11,12	<b>section (1)</b>	73:8 83:17	<b>short (3)</b>	<b>solitary (2)</b>
<b>running (1)</b>		<b>sergeant's (7)</b>	25:18,19 88:5	67:11,13

November 21, 2019

Page 111

<b>somebody (5)</b> 42:2 43:8 65:23 77:13 93:24	2:9,10 4:4,7 9:8,12 11:18 11:25 12:4,13 30:23 90:14	<b>stuff (5)</b> 39:10 41:7 69:22 84:12 90:25	51:7 55:23,25 65:5	<b>talk (2)</b> 12:8 23:20
<b>somebody's (1)</b> 65:23	<b>stated (5)</b> 67:8 73:23 74:7 81:9,17	<b>subjects (1)</b> 30:6	<b>Suspect (1)</b> 78:12	<b>talking (7)</b> 5:8 16:24 26:9 32:9,12 46:21 86:18
<b>sorry (2)</b> 8:15 42:6	<b>states (3)</b> 1:2 8:3 50:20	<b>submit (5)</b> 31:12 50:25 64:23 73:21 81:7	<b>suspended (7)</b> 11:20,24 89:18 89:21 90:3,6 91:18	<b>Tall (1)</b> 52:14
<b>sort (2)</b> 22:6 57:14	<b>stationed (1)</b> 29:3	<b>submitted (1)</b> 52:9	<b>suspension (2)</b> 90:12,15	<b>taller (2)</b> 73:10,11
<b>sound (7)</b> 91:15 94:20 95:2,8,12,18 95:23	<b>status (1)</b> 55:7	<b>Subscribed (1)</b> 96:17	<b>suspicion (5)</b> 64:21 65:20,21 65:25 66:3	<b>tank (3)</b> 82:23,24,25
<b>south (17)</b> 2:10 19:21,21 19:22 20:22 21:2,2,7,9,10 21:11 22:18 22:20,21 23:12,14,18	<b>steady (1)</b> 14:15	<b>suggest (2)</b> 55:10,17	<b>sweat (1)</b> 31:17	<b>tape (3)</b> 74:4 78:22 81:14
<b>Special (2)</b> 16:21 67:9	<b>stenographic...</b> 97:7	<b>summertime ...</b> 22:16	<b>sweatshirt (1)</b> 31:16	<b>teaching (1)</b> 29:23
<b>specific (1)</b> 29:17	<b>steps (1)</b> 21:16	<b>superintende...</b> 29:7,12 91:8	<b>sworn (5)</b> 3:13,15 4:3 96:17 97:6	<b>tell (4)</b> 20:16 29:24 30:21 32:3
<b>specifically (2)</b> 12:9 45:9	<b>STIPULATE...</b> 3:3,8,12	<b>supervising (1)</b> 18:14	<b>Syracuse (1)</b> 2:10	<b>tells (1)</b> 24:10
<b>spell (1)</b> 8:17	<b>stomach (1)</b> 31:19	<b>SUPERVISI...</b> 1:8,15	<b>system (1)</b> 39:24	<b>ten (8)</b> 15:19,19,22,23 27:23 28:19 57:25 58:17
<b>staged (1)</b> 58:8	<b>stop (1)</b> 11:17	<b>supervisor (1)</b> 63:22	<b>system's (1)</b> 70:7	<b>term (4)</b> 19:7 27:7 37:25 67:13
<b>stamp (4)</b> 48:5 51:19 62:23 71:10	<b>stopped (2)</b> 29:6 73:3	<b>supervisors (1)</b> 47:22	<b>T</b>	<b>terminology ...</b> 76:12
<b>stamped (5)</b> 48:12,22 59:13 59:21 71:11	<b>store (1)</b> 88:25	<b>supposed (13)</b> 22:19,21 23:3 23:4,5,8,22 23:23 24:15 33:25 39:14 41:2,7	<b>T (7)</b> 3:2,2 4:2,2 81:6 97:2,2	<b>terms (4)</b> 6:24 13:15,16 34:15
<b>standing (1)</b> 34:19	<b>stored (1)</b> 37:11	<b>sure (23)</b> 4:21 16:22 18:20 19:2,19 21:24,25 22:2 22:3,7,9 24:2 26:10 27:14 33:23 34:24 35:9 46:23 52:25 75:8 87:22 88:7 95:20	<b>take (23)</b> 5:7,9,11,12 6:17 16:25 20:11 21:6 32:2,4 33:15 43:5 46:14 48:11 54:13 64:16 73:25 76:17 77:22 77:23 81:10 88:5,8	<b>testified (5)</b> 4:5 70:16 84:2 84:19,22
<b>start (2)</b> 31:14 33:9	<b>street (7)</b> 1:22 2:4,10 12:13 20:24 36:6 44:18	<b>surrendered ...</b>	<b>taken (5)</b> 1:20 56:9 71:22 88:11 97:7	<b>testifying (5)</b> 5:21,23 49:25 69:16 85:21
<b>started (1)</b> 74:12	<b>strip (24)</b> 32:11,20,22 33:9,11,16 34:15 51:5,7 54:7,10,11,20 58:24 60:4,13 60:22 61:14 61:16,19,20 65:3,4,12			<b>testimony (7)</b> 6:3,9 85:18 86:20 88:2 97:6,7
<b>state (21)</b> 1:8,8,9,15,15 1:16,19,21,24	<b>stuck (2)</b> 18:24 23:16			<b>Thank (2)</b> 7:5 96:11



November 21, 2019

Page 112

<b>Thanks (1)</b> 42:7	87:21,24	47:22 54:10,12	<b>two (15)</b> 5:7,21,24 6:16	<b>unknown (4)</b> 51:3 54:8
<b>they'd (1)</b> 23:17	<b>till (2)</b> 20:4 39:4	65:23 94:19	10:16 24:19	61:10 64:25
<b>thing (6)</b> 17:20 18:8	<b>time (75)</b> 3:10 5:8 6:17	94:25 95:7,10	26:4,14 27:3	<b>unusual (3)</b> 33:3,14 78:10
22:7 32:4	9:21 11:3,20	<b>toothbrush (3)</b> 51:9 62:11	34:12 45:8,11	<b>upfront (1)</b> 29:4
35:23 86:23	11:23 12:3	65:7	64:6 85:19	<b>use (6)</b> 6:9 24:7 30:8
<b>things (7)</b> 22:9 30:21	14:14,23 16:5	<b>TORRES (2)</b> 97:3,23	<b>two-cutting-t...</b> 45:18	35:15 76:12
34:23 45:12	16:10 19:13	<b>total (2)</b> 28:18 95:17	<b>type (16)</b> 8:25 21:23	89:13
65:22 67:21	19:13,17,17	<b>trade (2)</b> 19:11,11	26:12 27:2	<b>usually (3)</b> 33:4 36:5 43:8
68:12	19:25 21:23	<b>trained (2)</b> 29:21 30:9	34:17 35:5	<b>utilize (2)</b> 37:2 38:8
<b>think (10)</b> 15:16 35:13	22:11,24,25	<b>training (7)</b> 29:14,19 30:8	45:8 51:8	
61:19 76:18	24:12,15,18	30:15 34:18	57:7 62:10	<b>V</b>
76:20 79:7	25:13,16	34:21 43:22	65:6 74:2	<b>v (3)</b> 59:21 62:24
92:22,23,25	27:13,18 29:6	<b>transcribed (1)</b> 97:8	75:24 78:19	71:10
96:9	30:3 34:25	<b>transcript (11)</b> 5:23 6:5,13	81:12 90:24	<b>vague (4)</b> 20:14 38:24
<b>Thomas (17)</b> 1:5 71:5,7,16	36:25 39:4,9	85:13 86:5,9	<b>U</b>	39:3 93:23
73:20 74:14	39:12 40:2	86:15 87:6,8	<b>U (1)</b> 3:2	<b>vaguely (4)</b> 50:3 85:22
74:22 77:9	41:11,17 43:9	87:10 97:10	<b>understand (...)</b> 4:24 5:4,15	86:21,22
80:4 83:10,14	44:6 49:18	<b>transcripts (2)</b> 87:21,25	14:8 15:16,21	<b>various (1)</b> 42:22
83:17 84:14	50:22 51:25	<b>travel (1)</b> 21:9	15:22 17:25	<b>Vasile (1)</b> 83:7
84:20 85:3,15	52:7 54:23	<b>tree (3)</b> 8:14,16,21	31:2,4 39:7	<b>vehicle (11)</b> 44:22 45:2,4,8
85:20	55:6 56:8,11	<b>trial (4)</b> 3:10 6:8 70:6,8	39:25 48:24	46:9 47:21
<b>thought (1)</b> 86:17	59:16 60:20	<b>true (1)</b> 97:10	55:19 68:17	89:24 90:4,7
<b>three (7)</b> 9:20 47:9	64:20 66:19	<b>truth (1)</b> 92:24	<b>understandi...</b> 86:11	90:12,14
53:22 58:17	67:12 69:15	<b>try (1)</b> 20:21	<b>understood (1)</b> 5:3	<b>ventures (1)</b> 39:6
74:6 78:19	70:20 73:3,19	<b>trying (2)</b> 18:25 87:18	<b>undertake (1)</b> 41:3	<b>versa (1)</b> 21:8
81:15	75:19,21	<b>tweezers (2)</b> 74:9 81:21	<b>uniform (3)</b> 25:21 35:18	<b>version (1)</b> 86:6
<b>Throw (1)</b> 45:15	78:15 80:16	<b>twice (1)</b> 6:21	36:10	<b>vice (1)</b> 21:8
<b>ticket (2)</b> 86:24 87:3	81:4 82:7		<b>unit (7)</b> 16:16,17,21	<b>victim (1)</b> 78:14
<b>tickets (1)</b> 87:16	86:12,25 87:4		67:2,9,14	<b>video (5)</b>
<b>tier (16)</b> 53:14 69:23,25	87:12 88:10		82:17	
70:2,2,3,15	89:12 90:13		<b>United (1)</b> 8:3	
70:16 83:22	91:18,19 94:8		<b>UNITES (1)</b> 1:2	
83:24 84:2,5	96:11,13			
84:9 85:14	<b>title (4)</b> 9:25 11:14			
	14:23 15:25			
	<b>titles (1)</b> 70:13			
	<b>to/from (1)</b> 50:7			
	<b>today (4)</b> 25:8 49:25			
	85:21 87:15			
	<b>told (10)</b>			

November 21, 2019

Page 113

88:14,18,19	<b>warden (1)</b>	78:12,19	13:8 17:24	78:8 80:22
88:23 97:11	29:10	80:21 81:9,12	31:3 38:25	81:2
<b>VIDEOCON...</b>	<b>wardens (1)</b>	81:15,17,18	85:4 86:17	<b>wrong (1)</b>
1:18 2:8 97:4	29:11	81:20 83:23	87:7 92:20	27:22
<b>VILMA (2)</b>	<b>wasn't (6)</b>	89:15 92:5	97:5,11,17	<b>wrote (6)</b>
97:3,23	14:24 43:7	94:7,8,11,13	<b>word (1)</b>	55:24 67:22
<b>violates (1)</b>	46:12,13,16	94:20	76:10	72:15 86:24
63:11	76:11	<b>weapons (4)</b>	<b>words (3)</b>	91:12,17
<b>violation (2)</b>	<b>watch (13)</b>	37:10 46:8	6:7 41:24 91:3	<b>X</b>
78:12 80:18	10:6,21 16:3	89:9 90:6	<b>wore (2)</b>	<b>x (3)</b>
<b>violations (2)</b>	29:2 40:18,20	<b>wear (2)</b>	58:22,25	1:4,11,17
64:6 83:20	41:16,20,23	25:15,22	<b>work (15)</b>	<b>xxxxx (2)</b>
<b>visual (1)</b>	42:11 43:10	<b>wearing (1)</b>	4:15 8:19,21	2:12 3:18
61:21	47:18 57:24	58:19	9:2,11 10:3	<b>Y</b>
<b>voluntarily (3)</b>	<b>watched (1)</b>	<b>week (2)</b>	11:21 12:6	<b>yard (71)</b>
55:22,24 65:5	24:25	55:3 56:19	13:22 14:15	15:2,3 18:21
<b>volunteered (...)</b>	<b>watches (1)</b>	<b>weekday (5)</b>	16:5 17:20	19:13,17,21
51:7 75:23	34:5	19:14,18,19,20	24:10 27:9	19:22,22 20:3
<b>W</b>	<b>watching (1)</b>	20:2	52:24	20:10,25 21:2
<b>W (1)</b>	34:10	<b>weekdays (1)</b>	<b>worked (7)</b>	21:4,14,16,17
4:2	<b>water (2)</b>	57:16	9:6 11:4 12:4	22:5,12,15,16
<b>waist (2)</b>	21:25 22:2	<b>weekend (2)</b>	24:17 41:17	22:18,18,20
31:19,20	<b>way (13)</b>	57:21 58:12	41:25 75:6	22:23,25 23:7
<b>wait (2)</b>	5:2 6:17 13:14	<b>weekends (4)</b>	<b>working (13)</b>	23:9,11,13,13
5:5 16:22	21:16 31:24	19:14 57:17,18	9:5 10:22	23:14,17,19
<b>waived (1)</b>	31:25 35:3,4	57:24	11:17 14:14	23:23,24 24:4
3:6	51:23 58:11	<b>weeks (1)</b>	27:11,12,15	24:11,22,24
<b>walk (2)</b>	70:7 92:25	30:5	27:17 29:6	25:2,2,5
21:13 25:6	93:10	<b>weighed (1)</b>	38:18 43:10	26:15,18,19
<b>walking (1)</b>	<b>ways (1)</b>	7:12	73:3 75:2	26:22 27:16
82:9	65:25	<b>weight (1)</b>	<b>wouldn't (13)</b>	27:19,25
<b>wall (3)</b>	<b>we'll (4)</b>	7:10	55:4,4 57:4,12	28:11,12
20:24 24:25	5:10,19 6:24	<b>went (5)</b>	57:23 58:13	33:10,14
31:13	96:9	10:9,24 13:21	74:23 75:3	35:25 39:14
<b>Wallkill (10)</b>	<b>we're (3)</b>	13:21 93:10	85:16 87:23	39:23,24 40:5
10:9,14,17,19	5:22 6:2 67:24	<b>weren't (1)</b>	94:12 95:13	55:2 56:12
10:23 12:19	<b>weapon (40)</b>	26:19	95:25	57:2,6,8,15
13:2,17,17	40:25 43:2	<b>WHEREOF ...</b>	<b>write (3)</b>	57:19 58:14
14:6	45:3 46:25	97:17	46:19 61:9	73:20 74:14
<b>want (6)</b>	51:9,11,13	<b>White (2)</b>	72:21	74:16 81:5
19:18 35:11	55:25 62:10	52:14 73:14	<b>writing (3)</b>	82:10
49:22 51:16	64:8 65:7,9	<b>wide (6)</b>	47:4,14,19	<b>yards (2)</b>
56:15 76:12	65:12 68:4,13	51:11 62:12	<b>written (11)</b>	21:11 22:19
<b>wanted (1)</b>	73:24 74:2,5	65:9 74:7	34:21 35:6	<b>yeah (18)</b>
46:15	74:8,8,9	78:20 81:16	59:5 62:6,9	
	75:24 77:5	<b>witness (11)</b>	64:7,18 73:17	



November 21, 2019

Page 114

19:15 24:5	39:9 40:8	49:20 51:19	65:16 89:18	21:21
29:13 34:14	<b>10:40 (1)</b>	<b>172 (3)</b>	95:15 96:2	<b>300 (2)</b>
40:12 53:13	1:23	59:10,14,23	<b>2017 (2)</b>	2:10 17:15
54:15,21	<b>11 (3)</b>	<b>173 (2)</b>	74:25 90:17	<b>36 (1)</b>
58:25,25	15:8,21 16:9	62:23,24	<b>2018 (4)</b>	7:9
60:14,24	<b>11:00 (1)</b>	<b>177 (3)</b>	9:23,23 91:7	<b>37 (1)</b>
76:16 77:2	28:25	48:5,12,22	91:14	53:10
79:4 91:13,16	<b>11241 (1)</b>	<b>178 (2)</b>	<b>2019 (4)</b>	
91:16	2:4	67:17,24	1:23 96:18	4
<b>year (7)</b>	<b>113.10 (3)</b>	<b>18 (1)</b>	97:5,18	<b>4 (3)</b>
7:22 24:21	64:8 78:11	15:21	<b>21 (8)</b>	51:6 53:10,19
94:17,23 95:5	80:21	<b>185 (1)</b>	1:22 49:9,13	<b>4-5 (2)</b>
95:11,15	<b>113.11 (2)</b>	7:11	52:6 56:25	61:2 65:4
<b>years (8)</b>	64:8 80:21	<b>19 (3)</b>	60:19 64:3	<b>4:45 (2)</b>
7:9 8:4 10:16	<b>11A4897 (4)</b>	15:22 95:7	65:16	20:4,5
24:20 47:9	50:12,23 61:4	96:4	<b>21st (1)</b>	<b>40 (2)</b>
87:4 96:2,5	64:22		97:5	14:22 16:2
<b>yell (1)</b>	<b>12 (7)</b>	2	<b>23 (2)</b>	<b>49108A (1)</b>
13:20	14:22 15:4,6,7	<b>20 (2)</b>	95:18 96:4	81:20
<b>Yep (2)</b>	15:8,21,24	15:22 21:21	<b>250 (2)</b>	<b>4910A (3)</b>
49:24 82:2	<b>1284 (1)</b>	<b>200 (2)</b>	17:14 22:16	51:15 65:14
<b>York (26)</b>	4:10	7:14,17	<b>25th (1)</b>	74:11
1:3,8,8,8,15,15	<b>13 (2)</b>	<b>2002 (2)</b>	97:18	5
1:15,19,21,22	15:8,21	7:23 8:5	<b>269 (1)</b>	<b>5 (3)</b>
1:22,24 2:4,9	<b>13026 (1)</b>	<b>2008 (1)</b>	36:17	51:6 53:20
2:10 4:4,10	4:11	8:5	<b>27 (2)</b>	82:25
9:8,11,17	<b>13202 (1)</b>	<b>2010 (1)</b>	91:7,14	<b>5-foot-10 (1)</b>
11:4,18,25	2:10	10:15	<b>276 (1)</b>	7:11
12:4,11,13	<b>14 (2)</b>	<b>2013 (1)</b>	36:20	<b>5/9/15 (1)</b>
	15:8,21	94:17	<b>28 (1)</b>	80:13
<b>Z</b>	<b>15 (2)</b>	<b>2014 (1)</b>	1:21	<b>500 (1)</b>
<b>zipper (3)</b>	15:21 25:16	94:23		12:20
31:21,22 33:6	<b>15-minute (1)</b>	<b>2015 (13)</b>	3	
0	88:9	7:13 18:14	<b>3 (15)</b>	6
<b>09A5824 (2)</b>	<b>1500 (1)</b>	25:9 26:9,12	69:23,25 70:2	<b>60 (1)</b>
73:21 81:6	12:15	42:14 71:23	70:2,3,15,16	79:11
	<b>16 (3)</b>	78:16,25	83:22,24 84:2	<b>600 (1)</b>
1	2:4 15:21	81:23 86:23	84:5,9 85:14	12:20
	91:19	95:5 96:2	87:21,24	<b>62 (1)</b>
<b>1/2 (1)</b>	<b>169 (1)</b>	<b>2016 (18)</b>	<b>3:00 (2)</b>	72:6
65:8	36:23	7:15 9:3 11:19	16:9 28:24	<b>63 (3)</b>
<b>1:45 (1)</b>	<b>17 (2)</b>	11:23 25:12	<b>3:30 (8)</b>	76:18,22,24
96:13	15:21 71:23	26:25 42:17	19:20,24 52:8	<b>64 (1)</b>
<b>10 (1)</b>	<b>170 (1)</b>	45:2 49:9,13	56:13,17,22	76:19
39:4	73:12	52:6 57:2	60:21 64:4	<b>65 (1)</b>
<b>10:00 (2)</b>	<b>171 (2)</b>	60:19 64:3	<b>30 (1)</b>	

November 21, 2019

Page 115

76:19				
<b>66 (1)</b>				
71:11				
<b>67 (3)</b>				
77:19,21,23				
<b>68 (2)</b>				
77:19 79:5				
<b>7</b>				
<b>7:00 (1)</b>				
40:11				
<b>7:30 (3)</b>				
39:4,8 40:12				
<b>7:45 (2)</b>				
78:17 80:16				
<b>8</b>				
<b>8 (3)</b>				
51:10 62:12				
65:8				
<b>9</b>				
<b>9 (3)</b>				
78:16,25 81:22				
<b>9:17-cv-0103...</b>				
1:6				
<b>9:17-cv-1036 ...</b>				
1:13				
<b>9:45 (1)</b>				
39:9				
<b>9th (1)</b>				
78:16				

## CORRECTION / ERRATA SHEET



The Letter of the Law. The Spirit of Service.

\_\_\_\_\_, being duly sworn, deposes and says: I have reviewed the transcript of my deposition / hearing taken on \_\_\_\_\_. The following changes are necessary to correct my testimony.

**CASE CAPTION:**

[illegible]

Sworn to before me this \_\_\_\_\_

Day of \_\_\_\_\_

NOTARY PUBLIC

Testimony Deposition / Hearing Witness:

X

Print: \_\_\_\_\_